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HOLY MATRIMONY
AND
COMMON-SENSE

SANCTITY OF MARRIAGE ASSOCIATION

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IN MEMORIAM

IT WOULD be ungracious in the author to fail to record his keen sense of loss in the death of eight devoted helpers in the work of the Association, now in the eleventh year of its existence.

The Rev. Dr. CHARLES F. J. WRIGLEY, Rector of Grace Church, Brooklyn, and deputy to General Convention, was one of five priests who, alarmed and disappointed by the rejection of the able and scholarly report of the Joint Commission of Fifteen to the Conventions of 1916 and 1919, was one of the most earnest founders of the Association. He ntered into rest in 1926.

The Rev. E. A. WHITE, D.C.L., beginning the practice in the author's parish, was, for nearly twenty years, of the Committee on Canons of the House of nd the author of two books of enduring value:

American Church Law, and, by order of the Convention, *Annotations on the Constitution and Canons*. BISHOP GUERRY of South Carolina, and Mr. T. B. BACOT, deputy to General Convention, had whole-souled faith in the courageous stand of their state, through all its history, on the Christian law of marriage.

Mr. HALEY FISKE, President of the Metropolitan Insurance Company, generously accepted membership on the Executive Committee, at the cost of sundering intimate friendships. BISHOP HALL's almost last act, before his sudden death, was to approve the MS. of this book. His scholarship and wisdom were fully recognized by his brethren in the House of Bishops.

Two other names, though not those of officers, must be added to this long list of grateful memories: Miss MARY EMERY, and the Rev. WYNANT VANDERPOOL, who from the beginning brought great help and cheer.

W. G.

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HOLY MATRIMONY AND COMMON-SENSE

BY
THE REV. WALKER GWYNNE, D.D.
SECRETARY OF THE SANCTITY OF MARRIAGE ASSOCIATION

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FOREWORD

I ALWAYS read a Preface, or as it is now the custom to call it by its Anglo-Saxon equivalent, Foreword. I hope therefore my readers will begin by reading mine. For a foreword should not only be the fruit of forethought and honest thinking, but a sign-post to tell in a few words the direction and objective of the author.

The purpose of this book is to put the responsibility for teaching and encouraging " trial " marriage, and all its appalling consequences, squarely on all those who " profess and call themselves Christians," and first of all on those who call themselves Episcopalians. It is frankly the work of an alarmist, but of one who for fifty years has given his subject in every aspect close study and anxious thought, for the sake of his own children and friends, as well as for his country. Year after year he has watched with dread the reckless pace towards a precipice with which America goes on its almost thoughtless way to eventual ruin. For that is what all history, both secular and sacred, tells us is the fate of nations who tamper with that which is the heart of nations, the family and the home. (See " Important Note " on p. x.)

David the prophet, and the king that was to be, in times of great danger to Israel wrote, " The founda-

tions will be cast down, and what hath the righteous done? " (Ps. 11: 3.) A later prophet, the President of a vaster realm than David ruled, has recently spoken in trumpet tones to Americans, asking practically the same question. With us the " righteous " are those who say they are followers of Christ, but who in many cases have turned a deaf ear to the plain words of their chosen King. Yet it is upon these who have heard the truth, and have perverted it, or found excuses for disobeying it, that the tremendous responsibility rests for the condition in which family and home in these United States stand, or rather totter, at the present time. To put the burden, therefore, where it belongs, and not on the untaught and half pagan multitude " who know not the law," is the prime purpose of this book. It was to Christians and not to heathen that St. Peter sounded the same alarm when he wrote concerning some unfaithful Christians: " The time is come that judgment must begin at the house of God." We American Christians of 1900 years later may well put his searching question to ourselves: " If it first begin at us, what shall the end be of them that obey not the gospel of God? " (1 Pet. 4: 17.)

Very few Christian scholars in America have studied the subject in its depth and breadth; its place in the nature of things, its history, its logic, and above all, its place in the teaching and the law of Christ. In proof of this one has only to examine the published lists of the bibliography of the subject as given in the reports of the Church committees here reviewed;

that of the Episcopal Church containing only fourteen titles, and that of the Federal Council, seventy-three. In none of which is there found a single book dealing with the question from the Christian point of view. A similar result will be apparent if one should examine the index cards of libraries such as those of the Public Library of New York, which contain well over a thousand titles on marriage.

Every Protestant or non-Roman committee in the last fifty years, with one solitary exception (the Joint Commission of the Episcopal Church of 1913–1916), has failed to look below the surface and perceive the logical impossibility of any departure whatever from a moral law, and especially that of the Seventh Commandment, without certain disaster.

Sympathy in fullest measure every Christian must feel for all who have made unwise choice of life partners. But for the *material* effects of all such mistakes, (for it is this which is always sought in remarriage after divorce) there can be no reversal any more than for the adventure of the soldier or the merchant. Mr. Huxley in his imagery of a game of chess, showed us how natural law must have its way despite consequences. "Nature," he says, "never overlooks a mistake, or makes the smallest allowance for ignorance." (*Lay Sermons.* See the passage in full in *Divorce in America* by the author, The Macmillan Co., 1925, p. 51.) The *earthly* consequences of the earthly error must be borne by the doer. They may be greatly relieved, and even compensated, by the brave bearing of the cross, as Christ commands, but

they are irreversible. "That sea never gives up its dead."

IMPORTANT NOTE

It is to be distinctly understood that what is said here or elsewhere on the necessity and duty of restoring the present canon so as to conform with "the doctrine and discipline" which this American Church inherited through the Church of England from "the Apostles' time" to 1868, does not imply any retroactive effect. Those persons, who, in good faith, trusted to the false guidance of the canon since then, must not be treated as wilful sinners, but rather as victims of most serious blundering and hasty judgment by the General Convention of that year, and the continued refusal of a small majority in the House of Deputies to remedy this error and falsehood up to the present time. See pages 53, 54, and Chapter XVII, pages 175–179.

Walker Gwynne
Secretary Sanctity of Marriage Association

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HOLY MATRIMONY AND COMMON-SENSE

CHAPTER I

THE PRAGMATIC TEST OF HISTORY

THE RAPID degradation of Holy "Matrimony," which means "Holy Motherhood," into a mere temporary arrangement, subject to annulment for fifty-two legalized causes (by means of which motherhood is almost ignored), is now stirring the thoughtful people of America as never before. And no wonder; "the wages of sin is death" is a saying which is no more certain to a person than it is to a nation — to Nineveh, to Babylon, to Jerusalem and, down to our own day, to Turkey. History, which means the experience of the race, is the pragmatic test of error. "The mills of God grind slowly," but surely. For this reason the Old Testament is nearly all history, and so also is the New Testament. The study of history is like the climbing of a mountain, or the ascent in an airplane, from which to see the nature of the land as a whole. A brief sketch, therefore, of the progress of the fatal cancer that is eating out the life of America today will

be of service in clarifying our thought as we approach the subject, by getting us first of all above the clouds and mists of our present blinding environment.

It is necessary to go much farther back than the date of our first settlement in America. The Christian Church of the first four centuries, when the mind of Christ and His Apostles was fresh in the minds of men, knew no more exception to the Seventh Commandment than to the Sixth or Eighth. Nor did the whole Church of the West down to the religious revolution in Germany in the sixteenth century. (The causes for the defection of a portion of the Eastern Church, in the sixth and following centuries, from the doctrine and discipline concerning marriage as held by the Primitive Church of the first four centuries, have been considered in an earlier book of this Association: *Divorce in America*, pp. 123, *sq.*).

The Puritans brought to New England in 1620 the loose doctrine and practice of Luther and Calvin concerning divorce (*ib.* pp. 137, 141), though these early colonists were still under the civil law of England, which 600 years before had adopted the Christian law of marriage as the law of the State. This law allowed judicial separation, *a mensa et thoro*, from bed and board, for just and weighty cause, but forbade absolute divorce for any cause. But the provincial assemblies or "High Courts" of New England gradually assumed authority to grant absolute divorce for adultery and other causes, including the right of remarriage. More slowly this rule filtered into the Southern States, though South Carolina steadily re-

fused to adopt the measure, and in 1895, by an amendment to her constitution, forbade it for all time.

Baptists and other religious bodies followed the example of the first Puritans. But the exception was not adopted until after the Revolution by "the people called Methodists" whom John Wesley, a devoted priest of the Church of England, in an endeavor to rouse the mother Church from lethargy, formed originally only as an association *within* the Church. In 1784 it assumed to itself the form of an independent denomination and allowed, after a divorce for adultery, remarriage to the innocent party. This was not adopted as a law, but remains only as a rule of their book of discipline, subject to action by their Bishops as an independent body.

It was not until 1868 that the Episcopal Church through its General Convention rejected the traditional doctrine and discipline which she had inherited from Christ and His Apostles through 1800 years. As will be shown in Chapters IX and X, the Convention of that year adopted a canon contrary to the promise of the first revisers of her Prayer Book (see p. vi, *Preface*), as well as to the requirement of her Constitution which demanded the approval of a subsequent convention to make any such change lawful. This canon allowed one exception to remarriage, under certain conditions, to the innocent party in a cause for adultery.

So it comes to pass that with these apparently small beginnings, after only 300 years of experiment with

one of the Ten Commandments, America has already reached a lower level as regards the law of family and home, than the Roman Empire had attained in the days of the first Christian Emperor. For in the year 331, when Christianity did not control one twentieth of the civilized world, Constantine, with the assistance of a committee of lawyers, succeeded in restricting absolute divorce in the civil courts to only five causes; while in so-called Christian America, our civil legislatures have multiplied the causes for remarriage after divorce by more than ten.

And with what result? The complete report of the Census Bureau for 1928 gives the following figures for the year: 195,839 divorces and 4,226 annulments, a total of 200,165. Divorces alone show one to every 6 marriages, while the proportion of Canada in 1926 was one to every 121! If annulments are included, our proportion is one to every 5 marriages. Of the 48 states, seven have one divorce to *less than five marriages,* namely: Kansas (4.8), Maine (4.7), Idaho (4.5), Texas and Montana (4.2), Ohio and Washington (4.1). Seven have one divorce to *less than four marriages:* Missouri and Oklahoma (3.7, Michigan (3.5), California (3.3), Oregon (2.5), Wyoming (2.4), Nevada (1.6).[1]

[1] It will be observed that these high records of divorce are not confined to the Middle West, or the Pacific coast, or the extreme South. Maine has one divorce to 4.7 marriages, the highest in New England; Connecticut, noted for its conservatism, reports as many as one to 9, while its neighbor, New York, has only one to 21.6. In fact one of the most startling statements comes from this state "of steady habits" in regard to the way in which divorces are obtained. "An intensive study of court administration" has been carried on

In view of such conditions we may well ask, with something akin to despair, "What shall the end be for our children, and our children's children?" Are we content to say, "After us the deluge?" It has been truly said that both "The Church and the world today are face to face, not so much with a question of Scriptural exegesis, as with a condition so horrible that it must be dealt with by heroic measures."

To these figures for a single year must be added the unrecorded shame and misery to parents and friends in 400,000 households; to children also rendered orphans, or with several "fathers" or "mothers," and with a stigma upon them to the end of their lives. We need not go to the pages of Milman, or Lecky, or Gibbon to find the effects in other lands. (*Latin Christianity*, I, pp. 501, *sq.*; *European Morals*, II, pp. 300, 306, 351; *Decline and Fall*, chap. xliv, pp. 275, *sq.*)

It should be evident from all this that for three hundred years past a majority of the Christian people of America have been acting like children, imagining

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for the last two years by the Yale Law School under the direction of Professor Charles E. Clark and an advisory committee of three other professors. This committee made its final report in March 1929 in which these facts were stated: (1) Out of a possible 100 suits where no contest was made 98 were granted; and in the majority of cases, probably, as the judges well knew, this was accomplished by collusion which they could not prove. (2) Divorce litigation in the records of the Superior Courts amounted to more than one fourth of the total business. (3) It is added that, when the defendant contested a case, the ratio changed somewhat, but even then the chances of success were three out of four. (See New York Times for March 24, 1929.) Here we have "trial" marriage without any mistake.

they can make experiments with a "new morality" to replace that of the Ten Commandments, and choosing as the scene of their attempts the law which proclaims the basic principle of all society. Like the fabled youthful Phaëthon, they have been taking the reins of the moral universe into their own hands, and like this son of Helios (the Sun), have brought disaster, not only on themselves, but upon the world.

I say that it is the Christian people of America that have done this. For if our civil legislatures have exceeded them in the liberality of their causes for remarriage after divorce, it is only because they have been logically carrying out the false principle that a single act of passion, vastly less criminal than cruelty, or desertion, and many other offences, suffices to destroy that which God and nature alike have made one. It is idle and unjust to blame these lawmakers, many of whom are unbelievers, or only half Christians, for they are only following, with pitiless logic, the example of their Churches, and improving upon it.

CHAPTER II

A NEW AWAKENING

IT WAS pointed out in our previous volume that as early as 1857 Hugh Davey Evans, a learned lawyer of Baltimore, sounded the first alarm in regard to our national danger. In 1869 President Woolsey of Yale had published *Divorce and Divorce Legislation*, and during the next twenty-five years the Rev. Drs. John Fulton, Nathan Allen, and Samuel Dike continued the alarm. It was not, however, until 1887 Congress showed any serious interest in the matter, when at length it ordered an investigation under direction of Dr. Carroll D. Wright, Commissioner of Labor, who had been successively lawyer, colonel in the Union Army, senator, and college president. This report was published in 1889, and a second, under the Census Bureau, was issued in 1908, while a valuable summary of the laws of the several States, and of some foreign countries, appeared in 1909. With the exception of the year 1916, when the World War left a great gap, no further report was made until 1923.

In 1929 President Hoover sounded his stern and courageous call to duty. From his wide experience as

an engineer he warned us that the most serious thing that could happen to a great cathedral, or bridge, or skyscraper is today happening to America — namely, "the subsidence of foundations." The President is too clear a thinker to imagine that the *rock* foundation was in danger. It is "*our* foundations," he says, the false foundations that foolish men are ever building on sand, that are "subsiding." Every engineer knows that when that is attempted in physics, mere external props are useless and a snare. The only remedy is deeper digging and restoration below, before there can be strength above. Here also we have an echo of what seems to be a *double* challenge which the prophet makes to Israel: "If the foundations be destroyed, what hath the righteous done?" Or, as it is in our revised version, "What can the righteous do?" Both these questions are needed by us, for one tells of the responsibility of the righteous, that is, the wise and God-fearing in every generation, for their own failures in the past. The other asks the very practical question, "What can the righteous do" now? It is true the word "divorce" is not used in the President's cry of alarm, but the problem of sexual immorality could not be absent from his thoughts any more than business immorality, or personal and public dishonesty, or contempt for human life.

What therefore we propose to consider in the following pages is not the responsibility of our secular state legislatures, and our national Congress, for producing and actually encouraging this national peril by their disgraceful laws, their false foundations laid

on sand, or else their utter absence of law, and stolid indifference to the whole matter. That has been considered in our earlier book. Here our task is to ask the conscience of every one who confesses Jesus Christ as Lord and Eternal Judge, " What have *you* as individuals, and in your various denominations, done in the past to bring about this tragic and almost desperate condition in your country? " And then to ask the second question, " What can you, and what *will* you, do now to correct it? "

There is indeed the hopeful sign of a new alarm being sounded all along the line of both Church and State. For whether we are Christians or pagans, believers or unbelievers, all are directly affected, and certain to suffer, with our children and children's children, in the common disaster of the nation. It is not merely a question of what Holy Scripture says about marriage, but what the very nature of things " from the beginning of the creation " says about it. For He whom men are compelled to confess the noblest, the wisest, the most loving of the race, was only the Restorer, and not alone the Originator of this " Holy Estate." It is therefore to Christians first of all, to their intelligence and their conscience, that the appeal of both President and Prophet comes with fullest force. It was not a parson but a great statesman, a lawyer, and a scholar, William Ewart Gladstone, who once said to a friend: " I have long thought that the battle of Christianity will have to be fought around the sacredness of marriage. Only Christianity," he added, " can save society."

What then, let us ask, has been the treatment of this Commandment, "Thou shalt not commit adultery," by many of Christ's professed followers during the last three hundred years? Have they been using it as one of the "commandments of men" (St. Matt. 15: 9), a mere by-law of an ever-changing "new morality," subject to revision by the "conditions" or the "science" of every coming age? Or have they regarded it as the natural as well as the divine law, the bed-rock under all laws of man, unchangeable from century to century, and for every land and race and condition of men — the friend and not the foe of every man?

What have these "righteous" persons done in the past to uphold this foundation law? Or it may be, What have they actually done to undermine and destroy it? What has been their part in the evil work of our forty-eight legislatures in proclaiming by their laws to willing hearers: "Under fifty-two conditions you can commit adultery with impunity"? No wonder our President, almost echoing the Apostle, should proclaim to Americans: "The time has come to realize that we are confronted with a national necessity of first degree; that we are not suffering from an ephemeral 'crime wave,' but from the subsidence of our foundations." Under these fifty-two "commandments and doctrines of men" (Col. 2: 22), marriage has become mere concubinage, and the consciences even of Christians are soothed by the opiates of the sentimentalist and the novelist. When an actual increase of divorce of 300 per cent has taken place

in forty years, so that we have now one divorce to every six (or less) marriages in these United States, instead of one to 17.3 in 1887, it is no wonder that the larger Churches of the country have become alarmed at last, and their representative bodies have appointed committees to investigate their own individual responsibility in the matter.

It is here then, and not to a half-Christian, half-pagan Congress, or state Legislature, we must look for the salvation of society in America. Will these churches and individual Christians, or rather will every patriotic American, study this question with honest, disinterested, and unprejudiced minds, and accept their own personal responsibility with manly courage? Or will this new outburst have the fate of all those that have gone before it during seventy years past?

CHAPTER III

A REVIEW OF SOME CHURCH REPORTS AND OTHER PAPERS

(1) *The Presbyterian Church*

FIRST in order and of primary importance among these reports is that of the Committee of *The Presbyterian Church in the United States of America*, made in 1927 to the General Assembly of that year. This begins by saying: "Divorce is now competing with death as a dissolver of marriages in the United States. One out of six marriages ends in the divorce courts. . . There are some who view this increase in divorce with satisfaction. Looking upon marriage as a civil contract, they rejoice in these changes in the law which make it easy for man or woman to be delivered from the obligations of a contract which has become irksome. These persons hail prevalence of divorce as one of the signs of the emancipation of the human mind from the fetters of ignorance, superstition, and prejudice. . . But it is easy to demonstrate from history that the increase of divorce, the thawing of family morality, and the breakdown of the sanctity of the home, have been the heralds of national decline and decay."

The committee then adds this solemn warning: "With the home crumbling before our eyes, and the very foundations of our social structure being undermined and destroyed, all favorable trade reports, all rejoicing in economic prosperity, and all self-congratulation upon our vast educational system, are like the sound of cheerful music as a funeral procession winds its way to the grave. 'I will dig thy grave because thou art vile,' was the judgment by the prophet of God upon corrupt Nineveh, amid whose dismal heaps today the wild beasts howl. . . Much as we love our republic, let us not deceive ourselves into imagining that there are in the American nation elements of perpetuity which guarantee its eternal preservation regardless of the violation of the moral law. . . The attitude of the Church of Christ towards divorce is, therefore, not a matter of expediency, or of particular application of conditions as they may exist in this or that society or community of men, but loyalty to the spirit and teaching of her divine Founder, Jesus Christ."

"The question of statistics . . . [of which an elaborate review by the Rev. Dr. William C. Covert, is attached to this report of the Rev. Dr. Clarence E. Macartney], and similar questions interesting and important in themselves, need not enter into our argument. Nor must we be influenced in any way by the distressing conditions which unhappy marriages present, or whether or not the granting of a divorce which dissolves one miserable home, may not be the means of establishing two other happy and childbear-

ing homes. The moment we discuss the question in that way we are dealing with the human philosophy of marriage. But this is totally distinct from the task to set forth the teaching of Christ. Our question is not, What does this man or that woman, this people or that people, this denomination or that denomination, say or think about marriage and divorce, but, *What does Christ think and say and command?* 'Ye are My disciples,' He says, 'if ye do whatsoever I command you' . . . On many of the social questions Christ was almost strangely non-committal. *But on the subject of divorce His attitude was quite the reverse.* Some of the most explicit legislation and teaching in the Gospels is that of Jesus on divorce." These are strong words, true, and incontrovertible. (See also Professor Peabody, p. 74.)

Referring to our Lord's attitude towards the compromise of Moses, "because of the hardness of men's hearts," the report goes on to say: "Christ goes back of all temporary legislation and indulgence on the part of Moses, and takes His stand upon the great principle and law of human nature with which the world commenced. In the light of this law there can be no such thing as divorce. *Man and woman brought together in marriage form a union which is indissoluble.*" (The italics are mine.) "If a man or a woman should depart from this union and marry another, they become adulterers. . . *So far, the teaching of Jesus is clear, logical and unmistakable.*"

It is most cheering to find this strong stand taken in regard to what constitutes the underlying and eter-

nal foundation of the problem — not "statistics," nor "conditions," nor "human philosophy," sociology, political economy, nor popular opinion, but "What does Christ say and think and command?" It is most cheering also to find the frank acknowledgment concerning an error in the Westminster Confession of Faith, and still standing there ever since its composition in 1643. In support of an amendment before the General Assembly to delete this ground for remarriage after divorce (desertion), as "in conflict with the legislation of Christ," the report continues: "Almost fifty per cent of the divorces granted are upon this ground. It is known that in a great many cases so-called desertion is the fruit of conspiracy and collusion. Nothing could be more unfortunate than that a great Protestant Church should seem to sanction this fountain of corruption in our American life." This is the final judgment of the report on this second cause for remarriage after nearly three hundred years of knowledge of its fruits. The authors add that its introduction was based on "an interpretation which many regard as wresting the Scriptures" (1 Cor. 7: 14, 15).

Such courageous and clear statements as the foregoing remove much of the dense and distracting fogs which envelop this fundamental question, and we must express our hearty acknowledgment for it. It leaves only one other point in uncertainty, which it is sincerely to be hoped that the Presbyterian Church will see logically, critically, and grammatically, as well as pragmatically, follows — pragmatically, be-

cause adultery lends itself even *more* easily to fraud than does desertion. That other point is the failure to see that in none of these ways do the exceptive words, as attributed to our Lord (probably correctly, see Chapter XIII) in St. Matthew's Gospel, contradict, or modify in the slightest degree, the statement of our Lord in the same sentence, or those in St. Mark, St. Luke, and St. Paul.

Some closing words of the report seem almost to acknowledge this. "Too much," the authors say, "has been made of the apparent disagreement, and not enough of the solemn agreement, of these four passages dealing with divorce. Nevertheless, there does seem to exist this disharmony as to the one cause of divorce. How shall we explain this?" they ask (p. 5).

CHAPTER IV

A REVIEW OF SOME CHURCH REPORTS (Continued)

(2) *The Federal Council of Churches*

THIS report, entitled unfortunately, "Ideals of Love and Marriage" (Jan. 1929), begins by declaring that "The Church has much to answer for in the present unsettled condition of the home." The writers have many wise words to say about the essential character of marriage; its two-fold nature, biological and spiritual. "It is an inspiring vision," they write, "of devoted loyalty and lifelong companionship." They quote the words of Bishop Hall of Vermont with evident approval, that "it is to be a relationship which is to be not only life-long but life-wide in its extensions." "*This is also*," they add, "*the Christian concept of marriage, as stated by our Lord Himself in words of extraordinary depth and power.* A man and woman in marriage become one flesh, 'They twain shall be one flesh'—that is to say, *the union is organic.* It is God who unites them, which means that it is a profound biological-spiritual experience which comes out of the depth of life. The

union is for life; 'what therefore God hath joined together, let not man put asunder.'" (Italics are mine.)

Unfortunately the committee's criticism of "companionate" marriage, a first principle of which is "no children," and the use of contraceptives, is very moderate in its tone. "The chief danger of companionate marriage," it says, "is that it puts sex desire first. Sex desire, though one of the normal instincts of the body, and one of the most powerful, should never be put first. . . To do so," it adds, "is to degrade, not only the mind but sex itself." In the same moderate tone it condemns divorce by mutual consent as "anti-social," and of greater concern to women than to men. "Women (it observes) are tied to children as men can never be, and most women are badly handicapped for self-support after years of work in the home." Possibly also, "women love more deeply than men," and therefore suffer more from sundering ties.

But surely all this admonition is too gentle to apply to a doctrine that boldly advocates in certain cases concubinage and legalized fornication, under this new and respectable name, "companionate," coined specially for the purpose. Here in fact we have one of those grossest and most dangerous examples of the attempted degradation of morals that Lord Bacon speaks of, namely, by "twisting and turning back" (*retorqueant et reflectant*) the meaning of good words to base uses. This "trial" love has no faint resemblance to the love that St. Paul glorifies in a let-

ter to his flock in Corinth, the most sensual city of Greece. True love, he tells them, "suffereth long and is kind, beareth all things, endureth all things, never faileth" (1 Cor. 13: 4, *ff.*). It is the love, St. John says, that not only designates God but "*is*" God in His essential being, for "God is love." It is the love that is duty, that loves those that it cannot like, even one's enemies.

The most advanced paganism never knew this conception of love. The language of Greece had no noun to express it until the religion of Israel gave it one. In this high sense it does not appear in Greek literature until it was used by the Alexandrian rabbis in the so-called Septuagint translation of the Old Testament into Greek for the use of Grecian Jews, between 285 and 100 B.C. (See *Thayer's Grimm's Lexicon s.v.* ἀγάπη = *agape.*) It is the love that finds its supreme example in the words, "God so loved the world" while it was His enemy, that He gave His Son to live and die for it. It is the love by which that Son, risen from the dead, tested the penitence and loyalty of His fallen disciple, now no longer Peter, a foundation stone, but only "Simon the son of Jonas."

"Simon, son of Jonas," the Master asks, "lovest (ἀγαπᾶς = *agapas*) thou Me more than these (who have not denied Me)? But Peter can rise no higher than, "Lord, Thou knowest that I have a friendship (φιλῶ = *philo*) for Thee." A second time Christ asks, "Simon, son of Jonas, lovest thou Me?" using the same word for love as before, but dropping

the comparison, but the penitent can only repeat his humble profession of friendship. Then, for the third time his Master probes him to the quick, using the fallen Apostle's own word, "Hast thou even a friendship for Me?" But still Peter can only answer out of the depth of his humility and grief, "Lord, Thou knowest all things, Thou knowest that I am Thy friend." He will not yet dare to profess that higher devotion, the love that means duty and self-sacrifice.

This is the only true love for God or for our brother man. It is the love that husbands and wives pledge and owe to each other, no matter whatever happens in life. It is the love for which the Latin language also had no adequate word, compelled as it was to use the nearest equivalent, "charity" (*caritas*), under which our older English translation gives us St. Paul's great description of what it is to love in reality; the love of Christ that "endureth all things, and never faileth," because it has the might of Christ's example and His grace behind it.

Yet it is this love which men and women in our day, and probably in every day, have been tempted to transform into the base passion of self-pleasing and self-gratification. And it is this lower sentiment which a noted English woman preacher (Miss Maude Royden) has embodied in a neat epigram that appeals to the low desires of willing hearers. It is this: "Where love is, there marriage is: where love is not, there marriage has ceased to be." No wonder that this same writer adds: "It ought to be made possible for two decent citizens who are really unhappy to-

gether to give due notice of the fact to the proper authorities and be freed from each other" (*Atlantic Monthly*, 1923).

Many wise words in this report are added in condemnation of "stunt" weddings, and "the marrying parson who commercializes his office." The committee also deprecates deferred marriages due to economic causes; and it urges fathers to give more time to the home, and to the daily "practice of the Presence of God" there. All this is excellent, and much to be thankful for. But there exists one fatal defect underlying this report also, in common with that of the Presbyterian Church, which largely defeats what has been said before. This, however, can be better treated in later chapters.

CHAPTER V

A REVIEW OF SOME CHURCH REPORTS (Continued)

(3) *The Methodist Episcopal Church*

THE Board of Bishops of the Methodist Episcopal Church of the World, meeting in Atlantic City in November 1928, "deplored the alarming growth" of divorce, and made the following statement: "We emphatically condemn divorce, especially when obtained with the view of [another] marriage, with all its destructive effects upon the home, society, and the moral strength and vigor of the nation itself."

Unfortunately, while making this strong statement, the Bishops in whom is vested the yearly responsibility of making or changing the rules of discipline, have recently made a new and enlarged interpretation of what constitutes "constructive" adultery, the one cause which, since John Wesley's day, has been the only one allowed among Methodists for remarriage. It is now by a strange logic declared that "abuse and lack of support" is to be accounted "the moral equivalent of adultery." A statement so radical has naturally not been received by thoughtful men in the Methodist Church without challenge.

An able writer in *The Methodist Review* of September 1927 gives these two illustrations of a very common attitude of mind produced on both old and young by the effect of *any* exception to "the spiritual ethic of Jesus, as found in His teachings in the New Testament. A mere child said to her mother, 'When I get married I will have two children, so that when I get divorced, my husband can have one, and I can choose the other.' The young girl had learnt of divorce as in the natural order of married life."

Speaking to an eminent physician this writer reminded him of Christ's words, "Whosoever shall put away his wife and marry another committeth adultery," when his friend replied, "Oh, we have outlived all that." "No," I answered, "we have not yet lived it, much less outlived it." These words of child and physician well illustrate the attitude of both extremes: on the one hand unthinking and irresponsible youth, in presence of false teaching and discipline, in home and Church and State: on the other hand, educated men who have no such excuse. This latter class owe their professional rank to having studied the principles of bodily health and medicine, or law, or physics. But the realities beyond the view of the microscope or spectroscope, things of equal or greater importance, form too often a neglected and unexplored region to them. Yet they would be the first to condemn, and justly, the historical or theological scholar who, without special study, expressed an oracular judgment on a question of physics or as-

tronomy. It is a poor rule that does not work both ways.

This question is well dealt with also by a writer in the same *Review* of November 1927, in reply to the frequent catch phrase, that there are many couples whom, not God, but the Devil had joined together; as if Satan had a creative power equal to that of God. "This misuse of a phrase for a divine principle," he says, "shifts the whole question of marriage from a real and absolute union of *persons*, and from the best social development of the state, to the sole ground of individual preference and pleasure, if not the lust, of the persons."

Moreover, combating another common sophistry, namely that law has no perceptible influence in teaching or aiding morals, this writer to the contrary says: "On this immoral ground divorce laws are a chief source of invitation to frequent divorce. . . It is better," he adds, "that *every* person should be bound for life [but of course not necessarily to live under the same roof] to one to whom he may be ill-mated, than that the sanctity of the marriage relation and the well-being of the family should be destroyed to relieve them."

Again the same writer says: "Marriage is not simply an agreement between the man and the woman, but between the man, the woman, society, and God. There are four parties to every marriage. . . The two lives united are further made one in the life of the child. There in the child is the attest of nature, society, and God, to the unity for life of the

wedded pair. Not until the child is unborn, and thrust back into the mystery of life from which it came; and that not through the gate of death, but back through the gate of birth; not until then can anything satanic, or human, or divine undo the unity of a married pair" (p. 969). "The crux of the problem of divorce," he adds, "is remarriage. It is the remarriage against which the word of Jesus is most distinctly uttered."

CHAPTER VI

A REVIEW OF SOME CHURCH REPORTS (Continued)

(4) *The United Lutheran Church*

THE REPORT of the Committee on Moral and Social Welfare (October 1928) begins by deploring the continued and rapid increase of divorce, while marriages decrease. "Homes are disrupted," they say, "and family discipline as a consequence is steadily undermined, yet little of a constructive nature is done to counteract the evils. . . Occasionally one hears a voice of protest raised, but more than protest is required to overcome the influence of the radical ideas which are being so widely disseminated at the present day. There is needed a new conscience," they add, "together with a vigorous educational propaganda under conservative auspices, if the family is to be preserved on a firm and truly rational foundation" (p. 2: para. 1). "The family," they say, "and not the individual," his wishes or imagined needs, "is the unit of social organization. . . Any tendency which subordinates the family to a selfish individualism strikes at the foundation upon which the nation and civilization itself must rest."

The committee deplores especially what they describe as "even more threatening," namely "that great numbers, including some of the teachers of our youth, have ceased to regard divorce as in any way an evil. On the contrary, it is now accepted in large circles as a necessary and salutary expedient of modern life, affording a convenient medium of escape, when the continuance in marriage relationship has ceased for any reason to be desirable" (p. 5:3).

Under the head of "Four Principles" much good advice is given in regard to the need of unselfishness, the imperative duty of both parents caring by example and precept for the right training of their children; the repression of excessive individualism, the exercise of Christian love, and the teaching about marriage by pastors, as a most essential method of accomplishing these ends; which is only to be found in "true religion," and not merely in moral or social instruction (p. 4: 1, 2, 3).

Writing on "The Meaning of Marriage," the committee declare that "marriage by its very nature involves the principles of monogamy and indissolubility. . . Where it is regarded as only a temporary union, having as its end the attainment of a merely selfish happiness, and so, to be formed and broken at will, its true purpose is frustrated. . . Only a life-long union between one man and one woman is compatible with social as well as individual well-being" (p. 6:2).

We have here many strong and wholesome words of counsel for which to be thankful. But alas! when

we come to the question of what constitutes "true religion" on the subject, and what to teach to the young and their elders, we meet with only confusion of thought, and self contradiction. After asserting that "the very idea of marriage, as divinely instituted, involves by its very nature the principle of monogamy and indissolubility," the statement is made: "In individual instances, *divorce followed by remarriage may be expedient*" (p. 6:2). But if marriage is "indissoluble by its very nature" and "by divine institution," how can there be any place for "expediency"? Do even our civil legislators allow expediency to negative any other foundation law of civilization, such as respect for human life, honesty, truthfulness, etc.?

Again, while asserting that, "according to the will of God, marriage was to be regarded as indissoluble . . . which Jesus reaffirmed as embodying the original will of God," in St. Matthew 19: 3–9 (p. 9: 3), we find such assumptions as, "Our Lord permitted divorce for the one reason of adultery" (p. 8:4) and that "Christ's words apparently make adultery the only justifiable cause for divorce, and so permit remarriage" (p. 9:2). But St. Augustine in the fourth century pointed out the logical "absurdity" of such an inference. Writing, not as a Saint, but as he really was, a man of sound reason and common sense, he describes it to be "as foolish a thing as could be said, that a woman may be loosed from the bond by her unchastity, and if she is loosed she shall not be an adulteress if she sin with another man" (Comm. on Ro-

mans 7: 2, 3). Again, replying to Pollentius, who argues, like some moderns, that adultery was equivalent to death, dissolving a marriage *ipso facto*, St. Augustine says: "See how absurd this is, that he is not an adulterer because he has married an adulteress. Nay, what is more monstrous still, neither will the woman herself be an adulteress; since to the second husband she will not be the wife of another, but his own" (XVII. 18, qu. by Watkins, *Holy Matrimony*, p. 334).

Commenting on this argument of St. Augustine, Mr. Watkins writes: "The human mind cannot admit contradictions in the same finite subject-matter. If one of the parties in a second marriage is by that partnership guilty of adultery, then the former bond must still exist. And if the bond of that marriage still exist, then it is adultery if the other ("innocent") party to it remarry. *One cannot be free, and the other bound*" (p. 333).

We have also one other more sweeping assertion in the report, which, if allowed, would extend to matters far beyond the range of marriage. It is made in reference to "the way in which Christ's teaching would have to be applied to a sinful world." If it is "exhaustive legislation," they say, "then it represents a unique divergence from Jesus' ordinary way of teaching; *for nowhere else does He legislate*. His method is always to lay down the principles of His kingdom, and then to allow men to make the necessary applications as circumstances arise" (p. 10:2). Of course no one but fanatics of a narrow type would attribute to

Him, as indeed many have done, a set of petty statutes or minute rules like those of the scribes and Pharisees. But the very remarkable thing about this divergence concerning marriage, if divergence it is, as Professor Peabody of Harvard points out, is that it is made at all. Its uniqueness only emphasizes its importance. (*Jesus Christ and the Social Question*, p. 146. For other quotations from Dr. Peabody by his kind permission, see Chapter IX. 3, of the present book.)

To find thoughtful Christian men, believers in Him whom they worship as God incarnate, "full of grace and truth," declare that Jesus Christ never "legislated," but only announced "principles" and lofty "ideals," falls on the ears of other Christian men sadly with a feeling of almost despair. On the contrary, surely He is the greatest of all legislators, uttering many "commandments," while giving the grace that alone enables men to keep them.

In what respect, we may well ask, do "exhaustive principles" (p. 10: 4), (as the acorn is to the oak) differ from laws or legislation? Any civil lawyer would promptly reply; "Only that they are the most important of *all* laws. They are the supreme law of the land wherever they are found, in treaties between nations, and in those constitutions which form the very foundation structure of nations."

Such assumptions, inconsistencies, and self contradictions in the interest of a pre-conceived theory only go to show the hopeless confusion into which this great subject is thrown, when the unqualified teaching

of our Lord as reported by three Evangelists and St. Paul, as handed on to us in the mercilessly tested pages of the New Testament, is regarded only as vague general rules to be left to our own various "applications." Lawyers and judges do not dare to treat the mere ordinances and statutes of men in that way, much less their national and state constitutions.

It is only when this "principle of the doctrine of Christ" (Heb. 6: 1) is established in the minds of men, that order will be found to come out of present chaos. "The really significant element of the teaching [of Christ] has been greatly overshadowed by this discussion of a single detail," Professor Peabody writes. "The emphasis of Jesus is, in reality, laid — not upon the terms of a possible separation — but upon the question of remarriage after such separation. 'Whosoever putteth away his wife and marrieth another,' *say all the passages.*

"It is against the provoking of alienation by this anticipation of remarriage that Jesus makes His special protest; and the modern world with its voluntary desertions often suggested by antecedent and illegitimate affection, knows well how grave a social peril it is with which Jesus deals. He teaches no prohibition of voluntary separation in case of conjugal failure; He makes no cruel demand upon the innocent to sacrifice children or love or life for one terrible mistake; but, except at the utmost for one cause, — and perhaps not even for that cause, — the mistake is one which, in the judgment of Jesus, involves a permanent burden. Marriage when undertaken must be

regarded, not as a temporary agreement, but as a practically indissoluble union" (p. 154).

In conclusion we would respectfully remind the committee of one of their own opening sentences, which refers to the claim that is sometimes made of the need of "adjusting the modern family to a new economic order." The statement reads: "There are principles underlying the family which are basic to its integrity and stability, and no adjustment can be sanctioned *which would in any way violate these principles*" (p. 2: 2).

Note

It is a pleasure to add here from a more recent report of this committee the following statement: —

"By admitting desertion as a justifiable cause for divorce the Lutheran Church is found in the position of fostering the very laxity which it ought so much to deplore and combat." (New York *Times*, October 5, 1930.)

CHAPTER VII

A REVIEW OF SOME CHURCH REPORTS (Continued)

(5) *The Episcopal Church*[1]

IT IS neither an agreeable nor an easy task to criticize this report of the Joint Commission of the General Convention on "The whole problem of divorce." But no matter how faithfully, according to their lights, the members have done their work, they cannot complain if it is subjected to close and honest scrutiny.

1 — *Table of Contents*

As few will take the trouble to read this confessedly "well-nigh overwhelming study," buried in the Journal of the Convention of 1928, it may help a little to understand its character by printing the headings which accompany the very varied list of subjects, as follows:

Two Proposed Remedies; City versus Rural Conditions; Lack of Children; Lack of Firm Stand by Church; Financial Tension; Sex Tension; Emotional Life Fundamental; Di-

[1] Reprint from *The Living Church* and *The Southern Churchman.*

vorce Primarily a Class Problem; Importance of Early Training; Good Advice to Adults Usually Futile; The Influence of Ideals; What Constitutes a Successful Marriage; The Work Done by the Director; Investigation by the Director; Questionnaire to the Clergy; Answers from our Own Clergy concerning Divorce among our own Church-going People; Divorce and Financial Conditions; Consultations with Clergy; Medical Certificates; Education for Marriage; Number of Divorces where Both Parties attend Church Regularly.

Then follow "Reports from Other Denominations" (Presbyterian, Baptist, Congregational, and Methodist), with comments thereon, largely the same as those in the preceding list, under the following additional heads:

Number of Divorces in which both husband and wife were regular attendants; Number of Divorces in all five Communions when One Party only is Regular Attendant; The Family as the Chief Educational Institution; How Make Christ's Ideal Effective; Make Marriage Indissoluble; Allow Annulment; Careful Study of Canons Needed; Separation of Civil and Religious Ceremonies; Greater Freedom of Divorce; Responsibility of the Church for Character Training; Conclusion.

Then follow five Appendices and a Bibliography.

2 — *A Contrast to the Report of 1916*

The first thing that strikes one in this long report is the fact that no names are signed to it, as there were to the scholarly, constructive, and concise report of the Commission of Fifteen, made to the General Convention of 1916. That report, with only one dissident (strange to say a Bishop), recommended the omission of the false proviso of 1868, which, for the first time in the history of the Western

Church, in the course of 1900 years, allows remarriage to the so-called "innocent" party.

A second marked contrast is seen in the fact that while the report for 1928 has no definite aim or programme, that for 1916 contained "A Statement of Principles" on the following subjects:

1. The Law of Marriage; 2. The Purpose of Marriage; 3. The Essence of Marriage; 4. Conditions of Marriage; and 5. A Summary of "Conclusions," on Federal Legislation, on the Roman Decree, *Ne Temere*, on Eugenics, Prohibited Degrees of Consanguinity, Provisions for Annulment, and on Admission to the Sacraments of persons who have entered upon marriage ignorantly, contrary to the laws of the Church.

The canon proposed by this Commission was adopted by the House of Deputies by a large majority in the clerical order (37 to 28 dioceses with 8 divided), but was lost in the lay order by a majority of only four dioceses (32 to 28, with 6 divided). (See Jl. of Gen. Conv. for 1916, pp. 501–504, and 232.)

A third marked difference between the two reports is the length of each; that of 1928 containing no less than 26,000 words, while that of 1916 has only about 2,000. A fourth still more important contrast is seen in the different methods of treating the subject. That of 1916 looks at it from the Christian angle, God's design and Christ's "commandment." That of 1928 regards it entirely as a social and economic question: its "Cure dependent on Research and Diagnosis." The authors compare their "study" to

"the work of the modern physician in the great triumphs of medicine in stamping out hookworm and yellow fever," and to that "of good engineers," and "all great corporations." They say, "Diagnosis and research represent the attitude of the modern mind," and then add, that it was in line with this that the resolution was offered: "To study the whole problem of divorce, its causes and conditions." But neither the language nor grammatical construction of this sentence corresponds with this interpretation (pp. 10, 11).

3 — *Conditions Are Not Causes*

This reversal of the order of the resolution was called to the Commission's attention by a committee of The Sanctity of Marriage Association, in the conference accorded to it in June, 1927. It was pointed out that "Conditions and Causes" cannot be construed as the equivalent of "the whole problem." Conditions are in perpetual flux in time and place. "Thou shalt not commit adultery" knows no change from age to age. It was in fact with immediate reference to the permanence of marriage that Christ said, "It is easier for heaven and earth to pass than for one tittle of the law to fall" (St. Luke 16:17, 18).

Another reason for objecting to this method of treatment is the fact that it is not with conditions alone that the "modern physician" has to deal, but with unchanging laws, the infraction of which by self-will or ignorance, is the prime cause of disease.

Nor is it with conditions alone that the "good engineer" has to work, either in skyscraper or airplane, but with the unchanging laws of gravitation, and stress and strain in material. In morals as in physics "one tittle of the law cannot fall" without disaster. But the report shows no recognition of this fundamental principle in regard to marriage.

The authors of the report recognize indeed that in this respect the United States stands lower than any other nation in the world, while they naïvely attempt to minimize this disgrace by saying that the evil is not confined to America. They also overlook the instructive fact that even Japan stands higher than we do, as their own report shows. For non-Christian Japan is moving upward, while America is moving rapidly downward. In 1901 Japan had as many as 140 divorces to every 100,000 of population, but in 1923 had only 88, as the result of having adopted a more drastic national code in 1898. In 1901 we had only 79 divorces to 100,000 population, and in 1926 we had 154, or almost double (p. 13).

The report then proceeds to give what it calls "Causes of Divorce," though they are really only conditions of rapid increase, as follows:

Hasty marriage, lack of uniform laws, apartment house life, lack of children, financial tension, sex tension, and "great changes in the ideal of family life." This is followed by "Three Questions of Primary Importance," which represent the nearest approach we find to any religious study of the question.

These are: (1) The amount of divorce among parishioners, "When husband and wife are recognized as regular

attendants at Church." (2) The extent to which clergymen were consulted in regard to marital difficulties. (3) The amount of training given for marriage.

4 — *"A Scientific Diagnosis"*

It was then to this scientific plan of diagnosis that the Commission set to work, and not to learn the mind of Christ. We need not wonder that they found the task "bristling with difficulties, well-nigh overwhelming." . . "In fact (they say) there are those on the Commission who felt that the task was so great that they could hope to accomplish little." Nevertheless, they secured the services of a social worker with whose aid, at the cost of "not less than $5,000," they obtained information from our consuls abroad, and in the United States from judges, social workers, educators, lawyers, psychiatrists, and social service commissions, by use of a questionnaire. As a subsidiary undertaking 100 lists of 17 questions were distributed among the students of one of the colleges of Michigan, to ascertain "what these students expected of marriage!" Of these 100 lists "75 were returned complete," but we are not told what light these youths had to throw on the problem.

A questionnaire was also sent to a number of our own clergy, as well as to the ministers of the larger parishes of each of the following Churches — Presbyterian, Baptist, Methodist, and Congregational, representing a cross section of the country. Here the chief stress seems to have been laid on the query as to the proportion of divorces where "both parties regu-

larly attended church"; the result being that 612 parishes of our own Church, or 77 per cent out of a total of 787 had none, while the average of the same class in the four other Churches was 84 per cent.

This does not accord well with the claim frequently made that our skirts are cleaner than those of our neighbors. Here is something to give us pause as to the effect of our eminent respectability, excessive wealth, and fashion, combined with the much-lauded possession of only one little leak (really the biggest, because easiest, of all the 52 of our civil codes), in that great moral dam to which the Commission refers us, as if it were a work of human engineers, and not God's work "from the beginning of the creation."

But even if it should appear that this American Church reported *better* results among regular church-goers than other religious bodies, the question to ask is, What is the use of all this statistical inquiry? For what are here mistaken for causes, are not causes of the disease, but only symptoms, or else things which only help or hurt. To speak of them as causes is to use the language of determinism or fatalism, not of Christianity. "I can do all things through Christ which strengtheneth me," should be the language of every Christian, as it was that of St. Paul. And it is for Christians the Church is legislating. The cause, as every one knows, lies deep in the human heart; either sinful desires, or else ignorance of God's law, as clearly declared by Jesus Christ, who is recognized even by the unbelieving world as

the greatest Moralist, Psychologist, and Lover of Men that the world has ever known. *Yet the authority of this noblest of all teachers is never once directly appealed to in this report.*

It is true that the authors quote the resolution of the House of Deputies of 1886 for the appointment of a Joint Commission, which reads:

> "Toward restoration of American civilization, decaying already at the root, by the promotion of stability in Church and State . . . in advancement of the glory of our Lord Jesus Christ who is the Head over all things to His Body, which is the Church (it is resolved), that this House will not abandon the subject of Marriage and Divorce, until legislation upon it be effected in full accordance with the law of God as set forth in Nature, and revealed in the Word."

This oblique approval is the nearest we get throughout to any first principle of study as Christians, and not as mere sociologists. Instead, we find such expressions scattered all over the book as, "the ideal of marriage." This is not the language of the New Testament, nor of the resolution of 1886; nor is it that of 1925. For "the whole problem" can no more exclude Jesus Christ and His "commandments" concerning marriage and divorce, than it can exclude those concerning murder or robbery. To talk of them as ideals is to degrade His Gospel of good news and good commandments to good advice.

5 — *Opinions and Statistics*

And what, let us ask, does this majority report give us in place of God's law and Christ's authority,

for the solution of "the whole problem of divorce?" We have a motley collection of all sorts of opinions, mostly irrelevant, such as those held by "many people in modern society, and within this Church, that Christ did not lay down a definite law of marriage, but that, *according to His custom* (where is this told?), He held up an ideal." And then it is added, "They do not feel that in the Sermon on the Mount, for instance, He gave an absolute rule of life for marriage any more than for anger, lust, oaths, and forgiveness of one's enemies" (for *all* of which He certainly did give an absolute rule). "They sincerely believe that Christ's ideal of monogamy would be better upheld by allowing the more frequent dissolution of unhappy marriages with permission to remarry" (pp. 55, 56).

Once more, with what seems like *quasi* approval, the report adds: "Those who take this position in favor of remarriage believe that society and the Church must recognize that the strict attitude of the Church is not only unfair and therefore unchristian, but they . . . insist upon the recognition of the widespread existence of illicit sexual relationships when divorce and remarriage are made difficult." Here again they quote, with apparent approval, the opinion of a London magistrate, Cecil Chapman, who writes: "In refusing to grant divorce except for adultery, it (the act of Parliament) actually encourages immorality, illegitimacy, and concubinage." For all of which he only points for proof to the 40,000 illegitimate children born in England and Wales in 1900 (p. 56).

But Mr. Chapman is very unfortunate (and the Commission fails to see this) in his statistics as giving a gross number, instead of a percentage of the total births. When we examine the statistics of illegitimacy of Europe in relation to the strictness or looseness of their divorce laws, we find a very different story.

During the period 1901–1905, Austria, which has ten causes for absolute divorce ("the most complicated in Europe") had 141 illegitimate births to the thousand; Sweden, with seven causes by civil court, and five by royal prerogative, had 113; France with five causes had 88; Scotland with two causes had 64; Italy with no cause had 56; England and Wales with one cause had 40; and Ireland with no cause had only 22! (Enc. Brit. 11th ed. vol. 14, pp. 301–304; also in *Divorce in America Under State and Church*, Macmillan, 1925, pp. 75, 76.) South Carolina and Canada would probably give a similar record to this last.

Here then we have the prevailing thought that characterizes this strange report of a Commission appointed to study this fundamental law of Christian and natural morality. This is also accentuated in the "Bibliography" at the end, where no less than seventeen authors, or sources, of "historical, statistical, legislative, ecclesiastical (?), and social characteristics of marriage and divorce" are given; not one of which appeals to the authority of Christ and the age-long witness of His Church. Such a method of "study" has been described in the language of the engineer as "unscrewing things generally." How is it, one must ask, that such modern scholars and

students of history as Liddon, Watkins, Gore, Luckock, Lacey, and Döllinger, who have given the question thorough study and research are not even once named? And this in a Christian Commission! Surely this is a most extraordinary course to be adopted by men appointed by the great Council of this American branch of Christ's Holy, Catholic, and Apostolic Church.

6 — *The Case Before the Court*

Let us now look at the evidence for and against divorce, with the assumed right of remarriage, as it would be adjudged by any civil court of justice (for that, and not the right of judicial separation, *a mensa et thoro*, without remarriage, is the only "problem"). Can the lawyers on the Commission doubt what the judgment of the Supreme Court of the United States would be, if an analogous case in common life were brought before it? On one side we have the chief "Witness, faithful and true" ("Jesus Christ," Rev. 1:5 and 3:14), and four other witnesses, all testifying directly and positively to a certain fact.

On the other side we have a seemingly contradictory parenthetical "exception" attributed to the chief "Witness," such as we find nowhere else, and out of keeping with the constant *manner* of speech of Him who always "spake with authority, and not as the scribes" (the rabbinical lawyers). This fact is so marked that, as Bishop Gore says, "It is the critical conclusion of an impressive consensus of scholars

from Germany, France, America and England . . . mostly Protestants in conviction, that the exceptive clause (in St. Matthew) is an interpolation" (*Question of Divorce*, p. 23); the explanatory work of an early editor, and by no means meant as a contradiction. (See Chapter XII.) "The Christian standard of the first three centuries (it has been lately written) recognizes no exception to the strictness of the law of Christ. Common sense leads us to the same conclusion. It is precisely the indissolubility of Christian marriage which leads both husband and wife to do their utmost to make their marriage a success. All weakening of the Christian law weakens the high call which marriage brings, and destroys its romance, since the maxim 'safety first' is the death of romance.

"The view that adultery dissolves the marriage bond not only degrades the conception of marriage by making its physical side the dominant consideration; it involves two absurdities. First, a man may cease to be married, yet be unaware of the fact. Secondly, it makes adultery, or a pretence of having committed it, the one way to get rid of a marriage which has become distasteful, and so puts a premium on adultery. If marriage is to be dissoluble at all, it should be also dissoluble upon other grounds than this (cruelty, desertion, drunkenness, etc.), as sensible opponents of the Christian law recognize." (*A New Commentary on Holy Scripture*, Bishop Gore, Editor in Chief; S. P. C. K. and Macmillan, 1928, New Test. p. 174; also pp. 86, 87, 140, 173, 175.

Compare St. Augustine, qu. in *Divorce in America*, p. 90.)

Moreover, in order to make this meagre evidence from St. Matthew at all effective against the other direct and absolutely unqualified evidence, the word "fornication" has to be transformed into a distinctly different word, "adultery"; and the grammatical construction has to be perverted, to make the exception apply to the final clause of the sentence (forbidding remarriage), instead of to the words which it immediately precedes, namely, "putting away" (divorce). To pronounce such evidence as this conclusive against the united witness of four other "faithful and true witnesses," would be like balancing a pyramid on its apex. No civil court could possibly accept such a conclusion. It has been said recently by one of the most distinguished members of the American Bar, "Lawyers are conservative by training," and "natural antagonists of paper reforms." How any lawyer, therefore, can uphold such a plea as that on which this sixty-year-old "reform" with its "exception" is based is, to say the least, very difficult of comprehension.

Once more, in all this "scientific diagnosis" from beginning to end, we find no fixed objective aimed at, but only a selection of varied opinions of what this person, or set of persons, "thinks," or "feels," or "sincerely believes," together with statistics, of which most are, in the legal phrase, "common knowledge." Of many, in fact, one is tempted to say with Dr. Holmes about the "Katydid,"

" Thou say'st an undisputed thing,
In such a solemn way."

7 — " *One Thing Lacking* "

To any thoughtful Christian it must be very evident that there is one thing lacking in this long report which makes it worse than useless, in fact wholly misleading. Search from beginning to end and you will not find the word " sin," nor any *direct* appeal to the " words " or " commandments " of Christ, which " the Father gave Him," and of which our Lord Himself said, " He that receiveth not My words . . . the word that I have spoken, the same shall judge him in the last day " (St. John 12:48–50).

Nor do we find a single reference or appeal to the unanimous witness and the discipline of the whole Primitive and undivided Church, when " the mind of Christ," His " words " and " commandments," were fresh in the memory; nor to the promised guidance of the Holy Spirit in that early history and throughout every century since. Moreover, in the whole Church of the West to this day, there is but one solitary exception to that tradition and witness; namely, the rash, illegal, and revolutionary action of the Convention of 1868, in a canon adopted unconstitutionally, and in flat contradiction to the teaching of both Prayer Book and Holy Scripture.

It was to this unconscious sophistry in the young rich man in the Gospel, who came asking, " Good Master, what good thing shall I do that I may have

eternal life? " that our Lord gave the blunt and wholesome answer, " If thou wilt enter into life, keep the commandments." And when the youth asked, " Which? " there came another plain and prompt reply, " Thou shalt do no murder, Thou shalt not commit adultery, Thou shalt not steal, Thou shalt not bear false witness " (St. Matt. 19: 16–22). And to the further question, " What lack I yet? " came still another commandment, virtually this, " Give up thy selfishness and follow Me, if necessary, even to My Cross." We find no mention here of " ideals," but only of " commandments." To call them ideals seems very much like playing with language.

So clear and so frequent is this testimony of the entire New Testament, of the whole undivided Primitive Church, and of the whole Church of the West for 1900 years, it is no wonder that Archdeacon Charles in his book, *Divorce and Nullity,* written in defence of the theory of the power of adultery to dissolve a marriage *ipso facto,* should be driven as a last resort to the only alternative left him: namely, to deny the truthfulness of all four witnesses, as well as the testimony of 1900 years of doctrine and discipline. For, beginning with an attempt to " prove " St. Mark's testimony " unhistorical and false, untrustworthy from start to finish, inaccurate, mutilated, distorted, and obviously re-written to prove a dogma," no wonder he succeeds in " proving," to his own satisfaction, that the other witnesses, and in fact " the entire New Testament (First, Third, and

Fourth Evangelists, and First Corinthians)," are in the same evil company as St. Mark (*ib.* p. 4, note. See also Chapter XIII of this book).

We may admire Dr. Charles' method of proof for its boldness, though we can give it only scant respect. But is smothering of the " whole problem " in a fog of individual opinions, and statistics about what is " common knowledge," any *more* respectable? The Census Bureau in 1908 and 1920 gave 1,175 quarto pages of such statistics of divorce, though not with reference to religion, but it is doubtful if any practical use was ever made of them. The same may be said of this present report.

8 — *The Net Result*

What then is the net result of this three years' work of 78 pages and 26,000 words? Not even " a most lame and impotent conclusion," but no conclusion at all. What is called a " Conclusion " is really a confession — an amazing confession. It is that " The whole subject of marriage and divorce is a difficult and intricate one, and that truly valuable knowledge can only be obtained through extensive research, involving the personal study of thousands of people who represent all conditions of married life." And then comes another amazing statement: " Doubtless an expenditure of $25,000 to $50,000 a year would be needed over a period of ten years to give us truly worthwhile results." Fortunately the worldly wisdom of the House of Deputies enabled them to turn a deaf ear to this suggestion.

Not once in this report do we find any attempt to study the law of marriage as revealed in nature, or in the express "commandments" of the Lord of all life, but only a confessedly "overwhelming" search after symptoms and effects which are already "common knowledge." Not once is that fatal bacillus named which Christ and Christians call sin. On the contrary, one of the Commission's authorities, "an attorney at law, a delegate to this Convention, and a Friend of the Court," is quoted as saying that the whole problem is "fundamentally an economic question . . . a social habit in certain groups" (p. 65). Divorce and its inevitable concomitant, remarriage (its prolific cause), are not once named as sins, only as social or economic failures to attain "success" or "happiness." The same writer adds in a postscript: "I may say that nothing, which I have discovered at least, leads me to a solution of the situation."

No one need wonder at this despairing "discovery," when the law of God, as revealed in the "words," "sayings," and "commandments" of Jesus Christ, is never once directly named as the key of "the whole problem." Yet it is of these words which "the Father gave Him" that He says, "The words that I have spoken, the same shall judge (a man) in the last day." In short it is *rejection* of this "commandment" of Christ, a rejection actually incorporated into the laws of men, that is *the most potent of all causes of haste and levity in entering on marriage, of consequent unrest and dissatisfaction between husband and wife after marriage, and of the*

great flood of divorce that is the disgrace of our country.

Can any one imagine Ignatius, Bishop of Antioch, or Irenaeus of Lyons, in the second century, or Chrysostom of Constantinople in the fourth, appointing a commission to make a careful research of "conditions and causes of divorce" in the Roman Empire, in order that, as Bishops in the Church of God, they might know what to do about it? In view of sixty years of such "study" we may well cry out with the souls of them that were slain for the Word of God, "How long, O Lord, holy and true, dost Thou not judge?" No wonder a well known clergyman in New York declared in a sermon recently in regard to this greatest of all our moral questions, that "the Church was fumbling." He might have added a much stronger word.

A professor in a well-known woman's college in Massachusetts made this statement lately at the annual meeting of The American Association for the Advancement of Science: "If the Ten Commandments are to be obeyed, it should be only when their precepts and advice can be proved to square with the best natural and social science of the present time." Also that "Sin goes into the limbo of ancient superstitions." (Dr. H. E. Barnes of Smith College.) It would seem as if the authors of this report had already anticipated this learned professor.

9 — "*The Ten Commandments Will Not Budge*"

It was a wiser Massachusetts man who wrote these words. Lowell did not regard our Lord exactly as we regard Him, but he could at least bow before Him in reverence as the noblest of men, and the greatest of all moralists. And no believer in Him as "the Light of the World" and by Whom "all things were made," can doubt that the Ten Commandments will continue to "square" with any kind of *real* science, natural or social, that the future may produce, as they have done in a good many thousand years of the past. The star of science will always lead, as it led the Wise Men of old, to Bethlehem, and the Divine Infant there, as the true "Light that lighteth every man," and who "knows what is in man." But when *Christian* men begin to experiment by revising any of the Ten Commandments in order to "square" them with the very variable "natural and social science of the present time," as this teacher in a college for future wives and mothers of Americans puts it, they may well lay to heart the word of "One greater than Moses," and greater than all sociologists and natural scientists: "He that rejecteth Me, and receiveth not My sayings (Rev. Ver.) . . . the word that I have spoken, the same shall judge him in the last day" (St. John 12:48, 49).

After all, it is well, in fact providential, that this professor should have told the world so openly his "angle" of approach to the Ten Commandments as well as to the latest "concept of God, if indeed there

be a God." For it ought to show to the authors of this unsigned majority [2] report how perilously near they are to some of these students of natural science when they have wandered beyond their own lawful boundary.

In short, the most extraordinary, the fatal feature, of the whole report is that Holy Writ, or the words of Jesus Christ, are never directly quoted as having any authority whatever on the great problem. Instead of a law-giver, "greater than Moses," and the Maker and the Light of the World, He is reduced to the dimensions of a great "Idealist." Christ, they say in effect, never issued any "commandment" or "absolute rule" on marriage, but only offered to men an "ideal." And this word is repeated again and again in many forms *ad nauseam*, as if to get readers accustomed to it as a commonplace and a truism.

The Archdeacon of Westminster deserved at least more respect, for he was fearless and above-board in his rejection of every passage and word in the New Testament that contradicted his novel theory, not sparing language in his condemnation. But these authors are only evasive. *They carefully avoid the slightest direct reference to "sin" or to the "words," "sayings," and "commandments" of their Divine Lord and Judge.* Moreover, they have treated as

[2] On February 23, 1928, and again on May 30, only ten days before his tragic death on June 9, Bishop Guerry wrote me his unchanged convictions as to our Lord's teaching concerning marriage and, at the same time, his fears that he stood alone in this respect on the Joint Commission.

negligible, in fact, have ignored, the age-long history, tradition, pragmatic wisdom, Spirit-guided doctrine, and discipline of 1900 years, together with the certain nemesis that has followed both individuals and nations that have set at naught the Seventh Commandment. Not only this, but they have attempted to minimize a fact which the House of Deputies declared, forty years ago, namely, that "American civilization was decaying already at its roots." If that was true in 1887 with one divorce to seventeen marriages, how much more alarming it is today with one divorce to only six marriages.

10 — *As to Legislation*

There are undoubtedly difficulties in legislation, especially in regard to divorced persons already remarried under the present canon. *Concerning these a new canon must have no retroactive effect.* Those who have trusted to the false guidance of the Church in the past sixty years, have been victims and must not be treated as willful sinners. Their present status must not be questioned. The Church at large must bear the responsibility for the past. The cases that need a properly constituted court are those many instances of irregularity or doubt occasioned by the chaos of our forty-eight civil codes on marriage, with their united fifty-two causes for divorce and remarriage.

Chief among these are cases of real nullity, where no true marriage has taken place, and for which the

only provision the State makes is divorce. (Eight states make no provision whatever for nullity; twenty-seven make no provision for judicial separation, *a mensa et thoro*.) Because the Roman court of Rota has made some very questionable decisions in regard to nullity, is no excuse for *our* doing nothing, and much less excuse for our continuing to allow remarriage for any cause. We are in no position to throw stones at others, so long as we retain this falsehood in our law. For it cannot be too often repeated that this particular exception in our own canon not only opens the widest and easiest door of exit, *but both actually and logically sanctions "companionate" or "trial" marriage.*

In other words, these difficulties have only to do with the application of God's law by a competent court to particular cases, and not to the law itself. When that law is recognized in the canon, most of these difficulties disappear. Nevertheless, throughout the discussions and opinions quoted in the report, "to determine the standards," as they say, not of a lawful, but of a "happy and successful marriage" (p. 5), the root of "the whole problem" is only vaguely alluded to, but never once stated. For, above social science, and political economy, and "every name that is named not only in this world, but in that which is to come," is that of the Lawgiver, as the Bishop of Chicago so clearly and eloquently proclaimed at the opening of the Convention — greater than all legislatures, and philosophers, and philanthropists, and parliaments — the

Everlasting Lord and Judge, alike of nations and of men. Jesus Christ cannot be *honestly* reduced by any Christian man to the place of a mere "idealist." Yet this is the phrase, as we have seen, which is constantly employed through this whole report, and by a commission of a great Christian Council!

It is charitable to assume that the authors of this report are unconscious of the sophistry of this transformation of the meaning of a very plain word into something wholly different. We may well ask, would they apply this word to any other of the Commandments of the Decalogue? Would they speak of "an ideal of honesty," or "an ideal of truthfulness," when they meant "Thou shalt not steal," or "Thou shalt not bear false witness"?

[Signed]

Arthur C. A. Hall, *Bishop of Vermont*
Irving P. Johnson, *Bishop of Colorado*
Philip M. Rhinelander, *Former Bishop of Pennsylvania, now Dean of the College of Preachers, Washington, D.C.*
Frank B. Reazor
Walker Gwynne, *Secretary*
Editorial Committee

CHAPTER VIII

SOME SOPHISTRIES

(1) *The Sophistry of "Ideals"*

MUCH STRESS has been recently and justly given to the need of persistent teaching of the young and their elders about the nature and the sanctity of marriage. But this is rarely accompanied by a statement of what is to be taught. It seems to be overlooked that law, written or spoken, as in the supreme example of the Ten Commandments, is one of the most powerful teachers that God ever gave to men. Without it man would be only one of the higher animals, a selfish and sensuous beast.

By marriage is too often meant only the legal union which convention, and good manners, and the civil law demand. It is not always "Holy Matrimony," that is, "Holy Motherhood" which, next to marriage, is the most beautiful of all human relationships. Parents, pastors, and teachers, in home and school and pulpit, are exhorted to undertake this work. Warnings are to be given against haste, and rashness, and secrecy, as well as irreverence in such things as "stunt" weddings, in airplanes, or on the stage. And all this is excellent as far as it goes. But

the most important thing of all is scarcely ever mentioned, namely, the natural and the divine law which declares positively what marriage is.

On the contrary we have a superabundance of teaching by sentimentalists, sociologists, writers in magazines, novelists, and others in more serious and responsible positions in life who, while approving of good advice, decry and depreciate the ability of law to help or control the beast in man. Instead they would have "ideals," and social and economic science, and gentle persuasives, and appeals to self-interest, to do the work of law. But that is not the way even of civil legislators, nor is it the way of Christ.

Others would have us believe that the Sermon on the Mount was meant to do away with what they erroneously think to be the cold and hard law of the Ten Commandments. But they have surely forgotten the great acrostic Psalm (119th) with its 176 verses, every one of which (not even excepting the 121st) contains some synonym for the word *Law*. There we have no impossible "ideal" for a devout Jew, as it is not and should not be, for a devout Christian. "My delight," says the Jew with his lesser knowledge, "is in Thy commandments, which I have loved. Thy law is the truth. Through Thy commandments I get understanding." "Thy will be done," it has been well said, "is no sigh of resignation to the inevitable. It is the soldier's loyal acceptance of the orders of his commander" (Bishop Stires).

It is of the Seventh Commandment as much as

any that St. James writes, " Be ye doers of the Word and not hearers only, deluding your own selves " (1:22, Rev. Ver.). For submission to this " perfect law of liberty," as he calls it, is the only *real* liberty. " Whose service is perfect freedom," as we Anglican Christians say in our daily prayer; or as the old Latin of the prayer with terse vigor puts it, " Whom to serve is to reign." *Cui servire regnare est.*

Others tell us that the Sermon on the Mount was meant at least to modify the sternness of the great Ten Words, as the quiet mountain-side in Galilee from which they were spoken took the place of the bare and forbidding peak of Sinai. They have only to read on to learn that our Lord tells them exactly the contrary. " Think not," He says, " that I am come to destroy the law and the prophets, but to fulfil."

He leaves us, moreover, in no doubt as to what law He is speaking of; not the temporary civil and ritual law of Moses, but the great unchanging law that binds for ever every human being. For He quotes again and again from that stern decalogue of Sinai, and fills one after another of its commands with a broader and deeper meaning than men desired to find in them. The angry and unforgiving thought is " murder "; the lustful look is " adultery." But if this is so, to those who submit to His will it is no impossible " counsel of perfection," for " He giveth more grace," " strength to do all things " (St. Matt. 5: 19, and 6 and 7; St. James. 4:6; Phil. 4:13).

On a later day He singles out another of these

laws, the Fifth, in order to condemn an attempt to insert into it an "exception" or "proviso," where no exception was possible. Here these same selfish influences were at work as they are now in perverting the Seventh. God said "Honor thy father and thy mother," but these Jewish lawyers found, they thought, a way to evade this primal duty. A son may compound, they said, for its breach, by saying to his parents in their old age, "The money I had for your care I have already given as a gift, 'corban,' into the treasury of the Temple, and I am no longer bound to do aught for you" (St. Mark 7: 11). Not to be outdone in thus making a close bargain or compromise with God and conscience, a proposal has recently been made, not by a Jewish lawyer, but by a modern Christian minister, that an exception should be inserted into this same Commandment so as to make it read, "Honor thy father and thy mother, provided they are worthy of honor." This would be in effect that trick known to law as "confession and avoidance." And the only difference between this modern "corban" and that of the Seventh Commandment is that the latter, instead of being a gift to a church, takes the form of some expenditure to a court and a lawyer, and the possible additional payment of what is called alimony.

(2) *Some Other Objections and Sophistries*

We are told, moreover, that if we make the canons and rules about *remarriage* (for here is the real question) to conform to the Seventh Commandment and

our Lord's interpretation of it, people will "snap their fingers at it." Of course even some professing Christians will do so, just as they and others snap their fingers at "Thou shalt not steal," or "Thou shalt not bear false witness." But because of this neither Church nor State has yet proposed to abolish these great laws. Why then is it necessary to modify "Thou shalt not commit adultery"?

There are some also, though not many, who paradoxically defend this reversal of our Lord's teaching by the assertion: "It is pure nonsense that the believers in the doctrine of the 'indissolubility' of marriage are the only supporters of its sanctity. It is not true," they say, "the supporters of the present canon [of the Episcopal Church] believe in Christian marriage as a permanent lifetime relation, just as much as do the believers in 'indissolubility.'" But those who write or think thus overlook a very solid fact, namely that nothing can be lifelong and impermanent at the same time. To say so is not only to quarrel with the dictionary, and Lindley Murray also (if that ancient grammar by a good American is still in use). It is a verbal contradiction and an absurdity also, an unconscious exercise of wrong thinking which makes "the wish the father to the thought." For it commits the double error of turning the original word in St. Matthew's quotation of Christ's saying, namely "fornication," into a quite different word "adultery," and applying it, where it does not belong, to remarriage (the easiest of all ways of getting rid of husband or wife) so that this

great law of God is made to read; "Under certain easy conditions, you may put away husband or wife and marry again, yet not commit adultery."

This is reducing law to something *less* than an ideal, the shadow of a shadow. It is nothing short of an attempted annulment by a gross misuse of words, tampering with the very coinage of thought. Shakespeare compares this method with such impossibilities as,

> "Feathers of lead, bright smoke, cold fire, sick health;
> Still-waking sleep, that is not what it is."
> (*Romeo and Juliet* 1.1.)

Or again, as the same great psychologist puts it still more strongly;

> "What thou wouldst highly,
> That wouldst thou holily; wouldst not play false,
> And yet wouldst wrongly win. (*Macbeth* 1.5.)

Cold-blooded cruelty, inveterate drunkenness, and desertion of helpless children are mortal sins, harder to endure than unfaithfulness, yet no claim can be made that our Lord ever named them as causes for dissolution of marriage. But Christian men, led away by mistaken sympathy, or some defect in their reasoning powers, assert that a single act of unpremeditated passion, perhaps under strong temptation, suffices to instantly dissolve the bond which, Christ declares, endures, not as long as love lasts, but as life lasts. And now, according to this theory, by this solitary act alone both innocent and guilty are free to marry again at will!

It is completely overlooked that the allowance of a single cause for absolute divorce is a distinct return to the fatal law of Moses, which our Lord declared to be only a temporary accommodation to " the hardness of men's hearts " in a time of spiritual twilight and childhood and which He now sweeps away with His " But I say unto you." This was the only cause allowed by the conservative rabbinical school of Shammai, but the lawyers of the " liberal " school of Hillel soon discovered, with logical acumen, as our modern legislators have done, that this one cause involves inevitably, as a matter of justice, its practical extension to "every cause" (St. Matt. 19: 3), as we have it today in America. And it is this very law of Shammai, which our Lord included in His sweeping condemnation, *that is the law today of the canon of the Episcopal and other Churches,* which is thus teaching " trial " marriage to young and old within their membership.

One of the authors, whose books on marriage are recommended for study by the Committee of the Federal Council of Churches, makes this statement: " I look upon divorce as the necessary remedy for a misfortune, *and as a means of preserving the dignity of marriage* " (E. A. Westermarck). And this on the principle of natural selection, and the survival of the fittest! There are probably very few so courageous as to express themselves so baldly, but in any case the principle involved does not greatly differ from that of those who trifle with both dictionary and grammar.

It is surely folly to think that this combined inconsistency, injustice, exaggeration of the powers of a single sin, and actual cruelty to the many for the benefit of the few, could possibly be in keeping with the mind of "the Holy One and the Just," whose sad but gentle rebuke to the heretic Samaritan adulteress was only: "Thou hast well said, I have no husband, for thou hast had five husbands; and he whom thou now hast is not thy husband." Nor does it accord with the words of Him whose greatest condemnation of another adulteress, brought to Him one day by some hypocritical men, mockingly for His judgment: "Go [back to thy husband] and sin no more; neither do I condemn thee." Yet it is this inconsistent condemnation of a single sin with which, in woman at least, He dealt *more* leniently than with men, that some Christians in Church and State have chosen as the most perfect agent for sundering man and wife, and thereby freeing them to repeat the operation at will with others. To attribute such a judgment to the mind and heart of Jesus Christ is not only impossible, but, as Döllinger puts it, "inconceivable," and, as St. Augustine 1500 years ago showed it to be "absurd and as foolish a thing as could be said."

We are gravely told, morever, in spite of His plain words, that "our Lord never talked in legal formulae, but only of ideals and eternal values." It is even asserted that His sayings about adultery were only examples of hyperbole, like turning one's cheek to the smiter, etc. We know of course that He never

prescribed mere ceremonial statutes, as did the scribes — "lawyers who laded men with burdens grievous to be borne, but themselves touched them not with one of their fingers." Nevertheless, He did put His stamp of authority on every one of the ten great "Formulae" that are the basis of all natural as well as of all Christian morality. To turn these, or any one of these, into an "ideal" is only playing fast and loose with words that stand for realities and "eternal values," recognized as such wherever civilized man is found.

It was in view of such evasions and sophistries that our Lord, in contrast to the scribes and Pharisees, declared His supreme and imperious will in the oft-repeated phrase, "But I say unto you." *And neither in the Sermon on the Mount, nor elsewhere, is there any instance of His inserting an exception or proviso to any other of His commandments.* That may be the way of a "new and scientific morality," but it is never the way of Christ.

While the great sermon begins with the glorious proclamation of the eight beatitudes: "Blessed are the poor in spirit, the merciful, the peacemakers," these improvers on the Master seem to have forgotten the closing words of His solemn warning: "Not every one that saith unto Me, Lord, Lord, shall enter into the kingdom of heaven, but he that *doeth the will* of My Father which is in heaven." Here is the law in all its strength and sternness. And then He adds for all such slighters of that perfect will, to which He Himself had bowed so completely, even

to the death: " In that day I will profess unto them, I never knew you, depart from Me ye that work iniquity " (*anomia*, that is, lawlessness; St. Matt. 7: 23.) He would have men know that neither the tender beatitudes of the Galilean mountain, nor the " glad tidings of great joy " of the hillside of Bethlehem, were meant to annul in " one tittle " the earlier message to the world with its repeated imperative, " Thou shalt not."

CHAPTER IX

LAW A GREAT TEACHER

(1) *For Good or Evil — Which?*

WHEN, therefore, we are told that we must teach the young and their elders about marriage, the essential thing to know is what that teaching of Christ is. Vague exhortations about "ideals" with "exceptions" and "provisos" will never get either teacher or learner anywhere. It is like going to sea with a highly colored picture instead of a chart and compass. And it is just this essential note that we miss in every one of these reports of the Churches which we have had in review, in spite of much excellent advice. Some of the *individual* papers have indeed reached down to the root of the matter, and laid their finger on the very germ of the cancer that is killing the moral, and consequently the religious, life of America. But this thought finds but little place in the reports, either of the Episcopal Church or the others. None tells us, as three Evangelists and St. Paul definitely do, what the law of God and of Jesus Christ, the Apostle of the Father, declares that it is. The canon of the Episcopal Church *declares* it clearly enough when it says: "No minister

knowingly after due inquiry, shall solemnize the marriage of any person who has been, or is, the husband or wife of any other person then living, from whom he or she has been divorced for any cause arising after marriage." But this is followed by a "proviso" or "exception" which contradicts and annuls what precedes; which in fact opens the door wide at both ends, exit and entrance, and by the way easiest and most pleasing to base desire.

Other denominations have followed with additional exceptions and provisos, and thus everything is made conditional, and no definite teaching is possible. This is the method of indirection which is contrary to the universal use and custom of our Lord, who never spake hesitatingly or ambiguously, but always "as one having authority, and not as the scribes," the lawyers of a degenerate Judaism. In view, then, of these "ordinances of men," backed as they are by the authority of some Church, professing to speak in the name of God, it is evident that all the warnings and good advice of parents and teachers and pastors are addressed to deaf or unwilling ears. These rules and canons, on the other hand, are neither silent nor unheeded, for they provide just those excuses which are dear to Christians who think they "have a right to happiness" on their own terms, and have forgotten or ignored the voice of their Master and Eternal Judge. His voice is silenced while the voice of this twentieth century, speaking falsely in the name of His Church, tells them they need not take too strictly the warnings they find in their Bible,

or in their Book of Common Prayer. If mistakes are made, either as the result of their own rashness, or of sheer misfortune, this false voice whispers loudly that there are ways of remedying them which the Church will sanction, and so we have in effect taught and encouraged, really though unintentionally, what is called euphoniously "companionate" or "trial" marriage.

(2) "*A Corrupt Tree Cannot Bring Forth Good Fruit*"

All law is a great teacher if men will listen, but bad and false law like this, in its appeal to the most powerful passion in human life, meets human weakness more than half way, and is therefore the mightiest of all teachers. And then we wonder why there are so many failures and broken homes in married life. It is of such blind leading of the blind that a clear thinker has recently written: "The Church is simply wasting its time in prating of the divorce evil," instead of dealing with the *corrupt root* of the evil, which is false teaching about marriage itself. Cruelty, abandonment of husband or wife and children, inveterate drunkenness, and the like, afford just cause, according to the law of Christ, as well as to that of the civil law, for what is called *divortium a mensa et thoro*, that is, legal or judicial separation "from bed and board."[1] But the only kind that is

[1] It is true that some of these fifty-two causes in our laws are just causes, under the law of Christ, for what is called judicial separation, for protection of one of the parties, and the children, from cruelty or danger. Yet strange to say, for this merciful re-

usually sought is that which Christ says "man" cannot accomplish and "may not" attempt. It is the kind which permits and sanctions a second marriage during the life of the divorced person that, this writer says, "is the feeder of prostitution, and the poisonous source from which youth learns the habits of debauchery. The moment we have seen the significance of the Christian ethic of sex, we realize what the Church has to teach and to preach, and to work for, is the unbreakable marriage. . . As now constituted [by civil and much of Church law], marriage is not a partnership; it is subject to the tyranny of its meanest member. Part of the difficulty today," he adds, "is that there is a mental reservation in the minds of too many of our young people. They look upon it as something they can get out of without disgrace, if they have to — a mental reservation that, '*if necessary, I can break the tie.*' Then shipwreck is exceedingly easy" (The Rev. Robert Scott Chalmers: *The Literary Digest*, Feb. 22, 1930).

In fact the practical result of this easiest of ways

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lief twenty-seven of our legislatures make no provision whatever except by legal sundering of the bond, thus allowing the worst evil-doer to practise his evil-doing on other victims.

On the other hand eight of our states, Colorado, Florida, Georgia, Idaho, Illinois, Mississippi, Missouri, and Rhode Island, have no provision whatever for annulment, even when according to civil and Christian law there was no marriage. To add to all this inconsistent and illogical lawmaking, many other legislatures grant only divorce for causes where the Christian law demands a judicial declaration that no real marriage ever existed. (See *Digest of Marriage and Divorce Laws* in the U. S. Report of 1909, Part I: the only report on the subject ever issued. A later one is greatly to be desired.)

of getting rid of husband or wife, and obtaining the reward of a new experiment, and possibly more evildoing, is that it makes the fifty-two causes supplied by our civil law-makers superfluous. It is only the repetition of the story of the stupid farmer who made two holes in his barn door, one large one for the cat, and a small hole for the kittens. Our modern legislators have exceeded this folly by providing fifty holes.

(3) *Canon Liddon on Human Law*

In 1869, twelve years after the abandonment by the British Parliament of the Christian law of marriage, which had been the law of the State as well as of the Church for 800 years, Canon Liddon preached before the University of Oxford, and the Judges of Assize, a powerful and most searching sermon on *Christ and Human Law.*

Referring to the theory that government in State and Family had its foundation in a contract or mutual agreement, he says: " The dream of any voluntary social basis of government has long since been rejected, if it was ever seriously entertained by the thought of Europe. Whether men believe in God or not, they understand that the central laws which keep society together are not matters of human choice, but are necessary and inevitable. And for those who do believe in a Creator and a Providence, this necessity of just laws is itself eloquent. It tells them of God's mind and will, ay, of the very harmonies of His own life, translated into the sphere of creaturely

existence . . . impressed indelibly upon, indissolubly bound up with, the very being and structure of society" (pp. 307, 308).

This great principle the preacher applied to condemn the assumption by Parliament in 1857 of "a dispensing power of precepts of revealed morality," specifically over the Christian law of marriage. And in a note to the second edition he turns to Germany for an illustration which should have double weight with Americans, considering the tremendous increase of divorce among us during the last half century. Liddon writes: —

"It is instructive to read Olshausen's commentary on the passage in St. Matthew as exhibiting the struggle of a sincere conscience, vainly endeavoring to be loyal at one and the same moment to the teaching of Christ and to the unchristian law of Protestant Germany. . . To do this the better, he projects a distinction between an external and an internal Church which, if it could be accepted, might help us to set aside *all* Christ's moral precepts that are in any way distasteful to corrupt human nature. 'The external Church,' he (Olshausen) argues, 'as a visible institution cannot possibly be regarded as the expressed *ideal* of the kingdom of God. It is rather the mere covering in which the communion of all the faithful is enswathed, than the kernel in the shell. . . As, then, in the Old Testament God permitted not only divorces but also the remarriage of the separated persons, so the Church *may* admit modifications of our Lord's law, as expressed in St. Matt. 5: 31, 32.

Indeed (Olshausen adds) the Church *must* do so.' The 'external' Church of Christ would, upon this supposition, be defined as a body of professing Christians who cannot be expected to keep the moral precepts of Christ. Is it not plain," he asks, "that some of the best divines of Protestant Germany [we might well add, of America also] are fatally influenced by civil laws and a public opinion which they should improve or resist; the power of a corrupt human tradition blinding them to the requirements of the Word of God? May He grant that it be not so among ourselves" (p. 331).

It has been said in America that "The only workable laws are those that are attuned to human nature." Exactly so, and that is why He who "knew what was in man," as no other man did or could, showed us by His own example, that self-pleasing was the destruction, and not the saving of the men and women of the world. Only by His cross, and by ours borne after Him, could that be accomplished. Judge Ben Lindsey, like many other men, says in effect, "Better yield a little in strictness of divine law, in order not to lose the whole." That rule may sometimes work in the physical world, as in the saying, "Half a loaf is better than no bread." But in the sphere of morals there can be no compromise with sin. There may be indeed degrees of guilt, and of responsibility, for which there is abundant mercy and pardon. There can be no change of either the letter or the spirit of the law of God. He will pardon every sin on repentance, but no power of

man can annul or modify His commandments. In that foundation there is not, there cannot be, any "subsidence."

The long series of blunders made by Christian denominations concerning marriage, and especially those of which the painful story is told in the three following chapters of this book, show with what carelessness, rashness, and yielding to false sentiment and prejudice, and even to public opinion, this basic principle of all civilization, has been treated in America. Never before, probably, in the long history of Christianity has any great subject received such misjudgment. We are gravely told by some sociologists, and even by some who are assumed to be theologians, that we can only find the real solution of the problem by "research" and "diagnosis," and "experimentation." At the same time these persons most naïvely or thoughtlessly overlook the fact that this process has been on trial in the world for several thousand years. Whatever may be the case in physical science and invention, the "Way of Life" and the Ten Commandments are not subjects for experimentation, but for obedience.

All this "Way" has been both told and trodden by Him who is Himself "The Way" in blood-stained footsteps, as well as by "words" and "sayings" and "commandments," by which, moreover, He says, He will judge us "in the Last Day." In Him is finality, the Last Word, the Supreme Reason, the Beginning and the Ending. Before Him all schemes of philosopher and physiologist and psy-

chologist must bow and obey, if their makers would learn the Way of Life.

For three hundred years past youthful America has thrown this teaching, and experience, and history to the winds as of no consequence. With what result every morning's newspaper, and the yearly statistics of the Census Bureau, and our own immediate and painful observation in the wrecking of homes, and the neglect and demoralization of children, tell us that in this matter our beloved country stands shamed before the world. But this can not go on for long without complete moral and even material disaster. Rich America, with all the might that God has given her above every other nation in the world, and all the good as well as evil that wealth and power provide, can no more endure this fatal disease than Babylon, or Rome, or Russia, unless she repents and amends.

(4) *Professor Peabody of Harvard on Marriage and the Family*

To the strong and clear words of Liddon we may add some others from Dr. Peabody in his admirable treatise, *Jesus Christ and the Social Question* (The Macmillan Company, 1900 and 1925).[2]

[2] With the kind permission of the author and the publishers, The Macmillan Co., I have made unusually large quotations from this scholarly and philosophic treatise of Professor Peabody. I do so because such treatment of the subject is rare in America, I might say unique; yet it is not known as it richly deserves to be. For the ordinary intelligent reader of his Bible, as well as for many a learned one even in the ranks of the ministry, it brings light and

To the objection that Christ's teaching on marriage and divorce, if regarded as "exhaustive legislation," represents a great divergence from His ordinary custom, the author points out that the remarkable thing about this divergence is that it is made at all. *Its very uniqueness emphasizes its importance.* "There were many other problems," he writes, "concerning which His judgment was sought where it must be inferred from slight allusions, or from complete silence, or from some illuminating phrase. Towards the politics, the larger social institutions, and even the theological issues of His time, His attitude was, as a rule, one of extraordinary reserve, which is as disappointing to many a modern reformer as it was to many a hearer of His message. On the other hand with quite unparalleled fulness of detail, the teaching of Jesus deals with the nature and obligations of the family. . . Still further, this is the only aspect of social life concerning which Jesus descends from the announcing of general principles to the further duty of prescribing specific legislation. . . 'When the multitudes heard it, they were astonished at His teaching' (pp. 145, 146, 147).

"It is not easy," the author adds, "to see how the subject has come to provide such inexhaustible material for ecclesiastical discussion. Unwelcome the teaching of Jesus may be to many modern minds;

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order out of what our popular magazine writers, novelists, and even more responsible persons, have reduced to a chaos and a fog. It is most noteworthy, and also deplorable, that the treatise is not once named in any of the five reports of Church committees reviewed in this book.

impracticable or injudicious it may appear under modern conditions; 'overstrained morality,' it may be, as Renan called it; but in its main features this teaching certainly cannot be called complicated, or equivocal, or obscure" (p. 151).

Once more, after stating the arguments on both sides in regard to the much misunderstood report of Christ's words as given by St. Matthew, which only speaks of "fornication," a prenuptial sin, and not adultery (which, according to the Mosaic law called for death of the adulteress) as a cause for "putting away" but not for remarriage, the author adds: "It may be still further urged that it is precisely the admission of this single cause which has brought with it, in all manner of disguises, that very laxity which Jesus was bent upon excluding, as though the one devil should return bringing seven other devils more wicked than himself" (p. 153) . . . "The emphasis of Jesus is, in reality, laid — not upon the terms of a possible separation — but upon the question of remarriage after separation. 'Whosoever putteth away his wife and marrieth another,' say all the passages. It is against the provoking of alienation by this anticipation of remarriage that Jesus makes His special protest (p. 154).

"He teaches no prohibition of voluntary separation in case of conjugal failure; He makes no cruel demand upon the innocent to sacrifice children or love or life for one terrible mistake; but, except at the utmost for one cause, — and perhaps not even for that cause, — the mistake is one which, in the

judgment of Jesus, involves a permanent burden. Marriage when undertaken must be regarded, not as a temporary agreement, but as a practically indissoluble union" (p. 154).

Finally, in view of objections of all kinds, some from "theological ingenuity, some from honest sympathy with innocent sufferers, some consciously or unconsciously sophistical, Dr. Peabody writes, "The Christian law is not primarily designed to make allowance for social failures, but to establish the principles of the kingdom of God. . . Every kind of argument about unhappy homes and uncongenial tempers, and newly discovered affinities, is answered by the simple words of Jesus: 'What therefore God hath joined together, let no man put asunder.' Every soft-hearted evasion of His legislation by these who profess to be His Ministers is confronted by His undisguised language, 'Whosoever shall put away His wife . . . and shall marry another, committeth adultery.' . . Why should one concern himself in marriage to be considerate and forgiving if it is easier to be divorced than it is to be good?" (pp. 158, 159.)

"The family is, to Jesus," he says, "not a temporary arrangement at the mercy of uncontrolled temper or shifting desire," but a personal relationship of "the flesh," like that of parent and child, and "ordained for that very discipline in forbearance and self-restraint, which are precisely what many persons would avoid" (p. 159).

"To many innocent persons," he says, "it is a teaching which, no doubt, has brought grave suffer-

ing; to many persons who have 'lightly or unadvisedly' become married, the penalty for their mistake has often appeared intolerable. Jesus, however, views the problem of marriage, like other social problems, from above, — in the large horizon of the purposes of God. Like a wise physician, He detaches Himself from entire absorption in specific cases of social disease, and considers them in close relation to the general principles of social reform. His teaching may, as He says, bring, not peace, but a sword. . . None the less, in the teaching of Jesus, the stable monogamic family remains the type of the unity of the kingdom of God. . . Among those marriages which have been deliberately wrecked on some well-known rock of neglected duty, in order that one or the other party might, with full insurance, embark in another venture, the teaching of Jesus stands like a lighthouse to mark the channel and to make such disasters criminally inexcusable. . .

"The view from above gives significance and justification to much in the teaching of Jesus which, when seen from below, may seem unreasonably severe" (pp. 160, 161).

(5) *Marriage and the State*

From consideration of the duty of the Church let us now turn to the State. In 1889 the Governor and Legislature of New York led the movement for reform and unification of our forty-eight civil codes on marriage and divorce. Other states followed,

but nothing was accomplished. In 1911 the Governor and Legislature of California, alarmed at a condition, they said, "that strikes at the very foundation of our social organization," appealed to the President and Congress to make laws "regulating the subject of marriage and divorce throughout the United States." Other states followed with similar memorials. Thus the whole American people were brought face to face with the basic political question. Are we really a nation? Or are we still a loose confederation of "sovereign" states, only comparable to those of the Balkan Peninsula? All these efforts and appeals "to promote the general welfare" (to use the words of the first sentence of our Constitution, have been stifled and buried in committees, never reported for open discussion in Congress. More than forty years have passed and we have still a confused mass of forty-eight codes of state laws, and one of the District of Columbia. *Again nothing is done.* The greatest social problem of the nation has never had its "day in court," and the legislators continue in smug security while the foundations of family, state, and nation are undermined. (On this condition see Lord Bryce's judgment in Chapter VII of this book, and also *Divorce in America*, etc., pp. 60–79).

But worse than all this is the fact that the professed followers of Jesus Christ, as individuals and in their Churches, close their eyes to the plain teaching of their Lord, and to the verdict of all history. It is here in America that knowledge is most wide-

spread, and responsibility is greatest. *Yet nothing is done.* For sixty years past this is especially true of the Episcopal Church, the inheritor through 1900 years of the doctrine and discipline of the Catholic or Universal Church, as her Lord has ordained it. Meanwhile in logic, in principle, and in fact, the falsification of Christ's teaching, foisted into her canon in 1868, has been degrading what should be "Holy Matrimony" to nothing short of "trial" marriage.

An eminent English statesman of the last century said that, when a great principle is involved, "To do nothing is in fact to take the most momentous and responsible action." That is what the Episcopal and other Churches in America have been doing for a century or more, in spite of an appalling and desperate situation. It would be well for the clergy and laity of the Episcopal Church especially to lay to heart the words of Bishop Gore addressed to the clergy of his diocese of Oxford in 1914: "There is, I believe," he writes, "a peremptory need that we Anglican Churchmen, and in particular we clergymen — bishops and priests, who have specially accepted the responsibility for maintaining the faith, and handing it on unimpaired to the generations that are to come — should undertake *the painful duty of thinking.*"

CHAPTER X

A BIRTHRIGHT NOT SOLD BUT CAST AWAY

A FIRST INDICTMENT[1]

(1) *The Beginnings of Degeneracy in America*

THE HISTORY of any social institution gives the sure clue to its right understanding, and if wrong to its correction. Without it, intelligent discussion is at vast disadvantage.

At the commencement of the eleventh century, the low pagan law of our Anglo-Saxon forefathers gave way to the Christian law, which taught that marriage validly contracted and once consummated, was henceforth indissoluble except by death. This was ordained at Eanham about A.D. 1009, by a National Assembly summoned by King Ethelred and composed not only of bishops and abbots, but also of lay representatives of the nation (Luckock, *History of Marriage*, p. 203, and Johnson, *English Canons*, Pt. I, p. 484, A.D. 1009 [8], and p. 506, A.D. 1017 [7]). This remained the civil law of England for nearly 850 years, down to 1857.

[1] Reprint from *The Living Church* and *The Southern Churchman.*

It was this law, which had been the law of the Church from the beginning, that the colonies, from the first planting at Jamestown in 1607 and at Plymouth in 1620, inherited automatically as the Common Law of the new land, and the Canon Law of the Church. But, inasmuch as its administration in the mother country was solely within the jurisdiction of the ecclesiastical courts of the two provinces of Canterbury and York, no corresponding courts were set up in America.

It was in this way that marriage, which is a sacred estate and not a mere contract, became subject to radical modification even before the Revolution. Loose or perverted ideas prevalent among the Puritans, and the lack of a reverent ritual of solemnization, made the descent easy, and the decline of both doctrine and discipline rapidly increased. It took more than five hundred years for pagan Rome to reach the degeneracy of the late republic. It has taken less than three hundred years for Christian America to reach the degeneracy that ranks her lower than any other nation in Christendom, with the possible exception of Russia under its present government; and it is not exceeded by non-Christian Japan.

As early as 1869, only 250 years after our first colonization, President Woolsey wrote: " Many were beginning to be alarmed at the distance to which the divorce laws in this country, and especially in New England, had departed from the command of Christ, and from the views of the early settlers." Nor was

this evil influence wholly escaped by the American Episcopal Church.

(2) *The Strange Convention of* 1808

When the number of our clergy was only 169 exclusive of those in Virginia (from which state in its exhausted condition no report was made), the General Convention met in the city of Baltimore in 1808. Only seven dioceses or states as they were then called, were represented, namely, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland. The whole Convention consisted only of two bishops, White of Pensylvania, and Claggett of Maryland, with fourteen clerical and thirteen lay deputies. Moreover, nowhere in the whole land did the Church have a school of sacred knowledge for the education of the clergy. And it was in this body of twenty-nine men, most of them of meager learning, that a resolution was adopted, and a step on the downward path was taken, which logically and inevitably leads far from "The Way" of the New Testament, and of eighteen centuries of Christian history and experience.

The character of this Convention as well as its numbers has a very important bearing on the question we are considering. How, let us ask, did this strange declination from the right path occur? On May 19, 1808, the deputies from Maryland, doubtless with the full approval of their bishop, who was present, informed the House: "They had been in-

structed by their Diocesan Convention to call attention to the expediency of adopting the canon of the Church of England concerning marriage, and inserting the same in future editions of the Book of Common Prayer." Such a step would have been only in fulfilment of the express declaration of the revisers in the preface of the book, nineteen years before (Preface, p. vi). Its printing in the Prayer Book, moreover, was a practical measure suggested by the growing ignorance of the divine law of marriage prevalent everywhere around them, and even in the Church itself. (In this connection, it is interesting to remember that at the recent revision of the Prayer Book in Canada, 1923, this very course was adopted of printing the unmutilated law of Christ, where it could be known and read of all.)

When this petition of the Diocese of Maryland was referred to the House of Bishops they gave it a whole week's consideration, and they returned it to the House of Deputies, not with a canon, but only with a resolution (by whom prepared we are not informed), and apparently without recommendation. In this they showed the same caution displayed in the treatment of another petition of Maryland, namely, for the adoption of the Table of Degrees of Consanguinity and Affinity, which they referred to another Convention.

The first part of the resolution contained this clear and strong statement: "It is inconsistent with the law of God that the ministers of this Church should

unite in matrimony any person who is divorced." Here was the plain and positive teaching of Scripture. It also declared the doctrine and discipline which their ancestors had upheld for more than a thousand years, and which had been the law of the Church in America for two hundred years past. But then was added *for the first time in all these centuries* (by whom we are not told), the contradictory statement or proviso, " unless it be on account of the other party having been guilty of adultery." Here it is to be noted that nothing is said about an " innocent party," for neither party in any real sense might be innocent. Another example of the bishops' caution.

(3) *The Difficult Situation of the Bishops*

Whether or not the two bishops, whose principles, as the record seems to show, were evidently against it, gave any formal assent to this resolution, is not stated. But three notable facts bearing on this uncertainty are to be borne in mind as casting some light upon their motives. (1) *Up to the time of this Convention the House of Bishops had no absolute veto on any action of the House of Deputies.*[2] Concerning this Bishop White writes: " There was accomplished at this Convention what has been from the beginning ardently desired by many, both of the

[2] Article I of the Constitution in its original form had a " provision by which four-fifths of the House of Clerical and Lay Deputies could accomplish a measure, without the concurrence of the House of Bishops " (*Memoirs of the Church*, by Bishop White 1880, p. 34).

clergy and of the laity, the giving of a full negative to the House of Bishops." And then he adds this comment: "It is to be hoped that the recollection of the course of this business will show the propriety of leaving to time and mature reflection to effect what may be for a while opposed by prejudice, not to be disregarded without extreme danger. What is here said, however, is designated of those prejudices only which may be yielded to without the sacrifice of essential principle" (*ib.* p. 232).

(2) Another notable fact is that the following addition to the VIIIth (now Xth) Article of the Constitution was now first adopted and referred to the next Convention for final decision: "*No alteration or addition shall be made in the Book of Common Prayer, or other offices of the Church, unless the same be proposed in one General Convention, and by a resolve thereof made known to the Convention of every diocese or state, and adopted at the subsequent General Convention.*"

(3) A third fact is also to be noted, namely, that, as the *Journal* records, *the whole body of the canons was revised and amended, while no canon was adopted on marriage, but only this resolution, which had no force of law.*

Now it is perfectly plain that the loose and unscriptural ideas prevalent all around them demanded nothing less of the Convention than the clear declaration of the former part of this resolution. But the latter part was an implied, and in effect a distinct, denial of the sanctity and permanence of the "holy

estate " of Matrimony, as declared in the former. At first it seems extraordinary that Bishop White especially, with his well known conservatism and his superior knowledge of history and of human nature, should not have observed the logical implication and the inconsistency of this proviso. How shall we account for this?

(4) *Bishop White's Own Story*

The peculiar conditions which the bishops had to deal with in this Convention must be taken into consideration, and these we have from Bishop White's own pen in what he calls " Additional Statements," forming an appendix to his *Memoirs of the Church,* which had been published some sixteen years earlier. Here we find the probable clue to this difficult situation.

In Bishop White, the providential leader of the Church, as his friend, Washington, was the providential leader of the nation, there was found that rare combination of great strength and great gentleness. In him was exemplified to the full the words of the Royal Psalmist, " Thy gentleness hath made me great." In that time of the Church's weakness almost unto death, such qualities were sorely needed. In the words of Bishop Henry Potter, in 1892, " His position was one of pre-eminent difficulty and isolation."

In his comments on the character of this peculiar Convention, Bishop White has much to say of his dif-

ficulties and of the troublesome men he had to deal with. Looking back from within a year of his death (1836) he tells us he found such discouragement as he had not found in any other period of his long episcopate of more than fifty years. Writing concerning a discussion in regard to candidates for Holy Orders, he does so, he says, "under the mortifying reflection that there has been an interference in the counsels of this Church of the wild and pernicious opinion manifested in this argument," concerning examining men as to "an experimental knowledge of religion." Again: "Should such reasoners obtain the sway in this Church, her system would be overturned."

Another of the Bishop's troubles in this Convention, he tells us, was that "ideas were prevalent in many places of dismissing ministers at pleasure." Again, he writes, "There had been displayed, *more than in any other Convention,* the influence of some notions leading far wide of that rational devotion, *which this Church inherited from the Church of England.*" Then, after saying, "There is no foreseeing to what lengths the spirit here complained of may extend in future, when combined with schemes of personal consequence," the Bishop, now in his eighty-eighth year, closes his comment on the Convention in these solemn words of warning: "The proper preservative — and God grant that it may be applied — is the cultivating of an enlightened zeal in favor of the doctrines of our holy religion, as revealed in Scripture, *and hitherto maintained in their integrity*

by this Church" (*Memoirs of the Church*, pp. 230, 231, 246, 247, Dutton, 1880).

It was under such conditions that the petition for adoption of the English canon on marriage was introduced to the Convention by the Diocese of Maryland. With all his well-known conservatism, his courageous defence of the Catholic inheritance of the Church in "the divine institution of the episcopacy, not accommodating in the least degree to contrary opinions" (his Fifteenth Diocesan Address), her liturgic worship and reverent ritual; her system of Christian nurture and discipline; it may well be that in these final words, written in extreme old age, Bishop White had in mind a special reference to the refusal of the other House of the formal adoption of the canon on marriage, which had been for more than 1,200 years, *and is still*, the inherited law of every branch of the Anglican Communion.

It was only after a full week's consideration that the two bishops gave their answer to the other House. One of them was the head of the diocese that presented the petition for the formal adoption of the law, under which they had been living for two hundred years: the other, as he expresses it in the almost dying testimony of these "Statements," was the loyal defender of "the doctrines of our holy religion, as revealed in Scripture, and *hitherto maintained in their integrity* by this Church."

What took place, concerning this matter in the House of Deputies, during this week, is scarcely therefore a matter of surmise. It is evident that the

ignorance and disaffection which the Bishop found in regard to other matters, such as he says he had never known before or after "in any other Convention," had resulted in a proposed compromise. The deputies were willing to accept an interpretation of the law of marriage which allowed one exception for the remarriage of divorced persons. This they thought they had found in St. Matthew's version of our Lord's words about the lawfulness of "putting away," while they overlooked His repeated and unqualified condemnation in the same sentence and elsewhere of remarriage as "adultery."

It was to this seemingly small compromise, first of a resolution instead of a canon, and second, of an exception, which at the time appeared to be of minor consequence, that the two bishops helpless at length yielded, or at least recorded no protest, in view of the alarming increase of lawlessness concerning marriage all around them. It was done also in the evident hope, to quote Bishop White's own words, that "the cultivation of an enlightened zeal in favor of our holy religion" would remedy "in time" the present errors. The refusal of the bishops to put this in the form of a canon, as asked for by Maryland, but only in a resolution which they knew had no force of law, as being a mere expression of opinion and a temporary measure to meet a critical situation, corroborates this assumption.

Considering the extreme weakness of the Church as represented by only twenty-seven deputies and two bishops, most of the former being ignorant to a large

extent, and also quarrelsome, we can neither wonder at nor greatly blame the bishops for acting as they did, in the hope of doing good by a slight yielding to expediency. But, as in all compromises where principle is involved, the hope of the bishops was in vain. For the next sixty years, the leaven kept doing its evil work both within the Church and without. It was overlooked that in that word " unless " was involved the whole question of the Seventh Commandment, just as a similar exception would undermine every other Commandment.

(5) *The Destructive Power of Adultery a Falsehood*

For it cannot be too strongly affirmed that this single exception which, without a particle of authority in Scripture, is assumed to possess the satanic power of destroying a union " God had joined together," affords one of the easiest of all ways for getting rid of husband or wife, as our courts can testify. But to suppose that our Lord could sanction such a method of release, which provided constant incitement to unsatisfied desires, is simply inconceivable.

The only ground alleged for adopting this theory (for it is only a theory without a shadow of foundation in Scripture) has been that adultery is the direct violation of one essential of a true marriage, namely, the promise of faithfulness " till death." An essential indeed it is, as expressing freedom of choice, but the promise *does not create* marriage, and neither can

its violation annul it. Promise is only one of several prerequisites of a valid marriage, which civil law equally with divine law demands. But these conditions are only requirements for the *contract* of marriage, and marriage is much more than a contract. To be true marriage civil law as well as divine law demands the fulfilment of this contract in the actual union of the parties, which is called " consummation."

" Those who have contracted and consummated marriage enter upon a new state [status] of life determined by nature. The state of marriage is not [merely] a contractual state. The contract is only the instrument by which the state [status] of marriage is brought about" (*Marriage in Church and State*, by T. M. Lacey, M.A., p. 32, London, 1912, Robert Scott).

" If this theory of the effect of adultery were true it would put into the hands of every unscrupulous man and woman, *by means of a single act*, the power to snap asunder the bond that alone creates the family, and knits all society into a brotherhood. When this single act is once committed, though in secret, the irrevocable deed of destruction is done. There is no longer any bond, and the judgment of a civil court merely proclaims and records a fact which already exists. Moreover, if this is true, tens of thousands of men and women are ignorant that their bond is broken, and they are living together in adultery! . . .

" Now the remarkable thing about all this is, that if one should search the Bible through he could not find the faintest hint of such a thought. Neither

adultery nor any other sin, however grievous, is anywhere named by our Lord, or by any Scripture writer, as having such satanic power of destruction. . . So far, indeed, is our Lord from asserting, or implying, that the bond of marriage can be broken, *He actually assumes the very opposite.* For in every one of His utterances, in St. Matthew as in St. Mark or St. Luke, He distinctly declares that a divorced woman commits adultery if she marries another; and that 'whosoever shall marry her that is divorced committeth adultery.' Could language be more explicit? And the only possible reason for this is that the original bond continues. It is not broken, and it is only *because* it is not broken that another union *can* be adultery" (*Divorce in America Under State and Church*, p. 89. See also St. Augustine, A.D. 429, on *Adulterous Marriages* XVII, 18).

Adultery only profanes the marriage status; it cannot destroy it. "One can no more disown a spouse than he can disown a child," writes a clear-headed non-Christian layman. . . True, it is very hard sometimes to bear the burden of this law," he adds. "If I were a praying parson, I should pray for sympathy not to become unfeeling to the complex secret agony herein involved. But the law is inexorable. The father must bear his trouble if the burden of a prodigal son is laid upon him. And the wife and husband together must bear their trouble if trouble is laid upon them" (*Marriage and Divorce*, by Professor Felix Adler, Appleton and Co. 1915, p. 58).

(6) *The Logical Effect of This Falsehood*

The far-reaching effect of this assumption is a fact which our civil legislatures, with one solitary and most honorable exception, did not fail to see, and were quick to act upon. For, beginning with that single departure from the straight path of the law of nature and of God, our forty-eight codes on marriage have now provided no less than fifty-two causes for breaking apart what nature and God have joined. And this they have done with undeniable logic, for measured by "the rule of reason" alone, thinking men have seen, and experience proves, that where one cause for remarriage is allowed, and that the one offence easiest to allege or to commit, there is no resting place between union till death and the right of perpetual change of partner. *Any* proviso turns the solemn contract "till death" into a mere bargain based on an "IF," which "man may sunder" at will.

Dean Inge may not be accounted a safe guide on all subjects, but in the matter of divorce for adultery he is only following the dictates of common sense, and the judgment of experienced judges, when he writes: "In the interests of morality, it might be safer to grant divorce for crime, contagious diseases, incurable drunkenness, and brutal cruelty, than for adultery." In fact the Dean was only adopting the opinion of the first judge of the new divorce court in England, who was formerly a pronounced advocate of the statute of 1857, which created it. These are

the words of Sir Cresswell Cresswell: " I have been taught a lesson of experience. I have come to the conclusion that it is better for society to treat marriage as indissoluble, considering it merely as a social question."

Unreasoning sympathy keeps asking, " Is it not cruel to deprive the innocent party of the possible happiness of a new marriage, it may be for a whole sad lifetime? " But this argument applies, often with stronger force, to other causes than adultery, such as those mentioned by Dean Inge, for which Christ's law allows only separation or " putting away." Here there is often greater reason to charge cruelty against our Lord than in a case of infidelity. If His law is cruel in the one case, it is still more cruel in others. But in Him who so loved the world that He gave His life for it, justice for all is only a sign of His love for all. The innocent must suffer as did He, if thousands of innocent persons are to be saved from suffering.

(7) *The Marriage Canon of* 1868

When we look forward sixty years from that little troublesome Convention in Baltimore to the Convention of 1868 in New York, we see the fatal effects of this early compromise, this apparently slight departure from the truth, with its mistaken idea of mercy for the few, while opening the floodgates of eventual ruin for family and nation. After two generations — which included the opening of the great

West, the finding of gold in California, the vast increase of population and of wealth, and the great Civil War — that insidious, unscriptural, and unconstitutional "resolution" of 1808 had done much to undermine the inherited convictions of both clergy and laity. Something must be said in extenuation of the fault of the two bishops and the twenty-seven deputies who composed that earlier Convention; the smallness and weakness of a Church having less than two hundred clergy, with their little flocks scattered over a vast territory, in the midst of overwhelming numbers of Dissenters of many kinds, and the total lack of any school of sacred learning until twelve years later, when the General Theological Seminary had its small beginning.

But there was little excuse for the General Convention of two generations later which met in 1868. In 1857 and before, this whole question had been thoroughly examined by eminent scholars, both lay and clerical, in England, notably by Mr. Gladstone, and to some extent also on the Continent of Europe and in the United States. Moreover, the inevitable result of the false resolution of 1808 had already showed itself. The little leak, oh, so very small, then opened in the dam ordained by God to hold back the mighty flood of the greatest of all human passions, was already widened by our legislatures, and by the opinions of untrained and non-Christian multitudes. With perfect logic a single cause for divorce was multiplied to practically "every cause," as had been done under the law of degenerate

Israel. And today America stands disgraced before the world.

(8) *The Strange Story in Official Verbatim Reports*

Here again it happens most providentially that we possess a complete record of the hasty and blundering manner in which this fundamental question of morals was treated in the House of Deputies. A verbatim report of the debates of the House of Deputies was ordered by that body, which shows conclusively the inadequate consideration, the haste, and the almost total absence of scholarship which this vital question received.

This was the first canon on marriage which, it is to be remembered, the American Church adopted as its own. For 261 years she had been under the canon law of the Church of England, which always had, and still has, no canonical allowance for remarriage after divorce for innocent or guilty, and recognizes no possible divorce from the bond, *a vinculo*. Strange to say, the proviso was looked upon as a very minor matter in the Convention, and received no serious attention until the sixteenth day of the session.

The story of the adoption of this canon in 1868 (at which I was present as a youthful student) is an amazing one. It would be incredible but that the House itself provided the verbatim indictment of its own shame. For in spite of the utter lack of a realization of the importance of the question, of the total ab-

sence of critical and historical preparation by the speakers (thirteen clerical and eight lay), and of the refusal to appoint a Joint Commission to study and report to the next Convention, or even to refer to any committee of the House other than the crowded and technical Committee on Canons; nevertheless, this radical error was inflicted on the American Church with all its poisonous results to both Church and Nation, after only a brief discussion on the sixteenth and seventeenth days of the session. Out of 208 pages of the verbatim report less than seven are all that are required to tell this tale.

Only two men of learning made brief objections to the novel proposal. These were Dr. Christopher Wyatt of California, and that robust Evangelical, the venerable Dr. Daniel R. Goodwin of Pennsylvania, who made the most strenuous protest against it, with the prophetic voice of a seer who foresaw the present outcome from this seemingly small beginning. Without further consideration the novel and false exception was adopted by both Houses, and so it remains to this day.

CHAPTER XI

THE SHAMEFUL BIRTH OF OUR MARRIAGE CANON IN 1868

A SECOND INDICTMENT [1]

(1) *The Story in Detail*

IT is a notable and hopeful sign that during the almost ten years of the existence of the Sanctity of Marriage Association, after the publication of more than fourteen pamphlets in defence of the Christian doctrine of marriage, no public challenge has ever been made of any of our facts or arguments. Criticism has been confined to two courteous personal letters addressed to the Secretary by members of the General Convention of 1928, the chancellors of two of the most important dioceses in the Church. "The rest is silence."

The only objection made by one of these eminent lawyers was to the use of certain words employed by the Secretary concerning the revolutionary action of the General Convention of 1868, which turned the "resolution" of the insignificant and half-educated House of Deputies of 1808 (fourteen clerical and

[1] Reprint from *The Living Church* and *The Southern Churchman.*

thirteen lay), but clearly not the House of Bishops (only two, very troubled, men — the Ven. William White, of Pennsylvania, and Thomas John Claggett, of Maryland), into a canon making possible the remarriage of the " innocent party " in a case of adultery.

The particular statement objected to in the Secretary's article was that this action was taken " with refusal to refer the matter to a commission, ignorantly, illegally, and in rejection of our pledge in 1789 to uphold both the *doctrine and discipline* of the mother that gave us birth." (See Preface to the Prayer Book, p. vi, and Article X of the Constitution, which requires that all changes in the doctrine, and even wording, of the Prayer Book must be referred for final approval to the succeeding General Convention.) The Chancellor claimed that this statement was " unwarranted and misleading, and should be corrected."

My answer to this second letter was in substance that the case was even worse than I had stated it. I reminded the Chancellor that all our ecclesiastical lawyers of recognized authority have held that from 1607 and 1620 up to October, 1868, this American Church was living under the inherited law of the Church of England, unbroken through twelve hundred years of national existence, as well as six hundred earlier years of primitive and Catholic tradition. That is the unanimous judgment of Dr. Hawks, Judge Hoffman, Dr. Francis Vinton, and Dr. Edwin A. White, a priest of legal training and practice, and

for twelve years chairman of the Committee on Canons of the House of Deputies. (See his *American Church Law*, 1898, and his *Annotated Constitution and Canons*, published by order of the House of Deputies in 1924. E. S. Gorham.)

It was probably in complete ignorance of this fact that the diminutive House of Deputies and not the "General Convention" (for there is no evidence, rather the contrary, that the two Bishops, without power of veto until 1811, concurred) adopted the "resolution" which attempted to revolutionize the Christian law of marriage, "as this Church had received the same from the Apostles' time" (Prayer Book, Ordinal, p. 529). It is true that this action had no force of law, nevertheless it helped mightily through the succeeding sixty years to vitiate the moral atmosphere, already for nearly two hundred years poisoned by the low views of marriage brought to New England by the Puritans.

(2) *Sixty Years After*

Let us now look forward for sixty years. Two generations have lived and passed away. Young men who knew nothing of the ancient law of God have taken their place. There have been great changes in the land — the war with Mexico, a new empire in the South, the conquest of the West to the ocean, population multiplied sixfold, the turmoil of the Civil War. In the Church also great changes. From less than 200 clergy to a thirteenfold increase, 2,662

clergy and 35 dioceses. But meanwhile the false resolution had been sowing its evil seed, both within the Church and beyond. Following this bad example, civil law was loosening the bonds of marriage still more. Divorce with remarriage was increasing rapidly.

The General Convention of 1868 meets in the Church of the Transfiguration in the city of New York. Alarm is felt and expressed in both Houses. In the House of Bishops a special committee (not "commission") of five is appointed on the tenth day, October 17. This consisted of the Bishop of Rhode Island (Clark), chairman; the Bishop of Connecticut (Williams), both of whom I knew and admired; Bishops Atkinson, of North Carolina, Talbot (assistant), of Indiana, and Armitage (assistant), of Wisconsin.

Five days later, October 22, they report a proposed canon, which is referred to the Committee on Canons. (See *Journal*, p. 208, 229, 230.) The next day, October 23, "agreeing in the views presented in the report," the Committee recommends it, and the revolutionary canon is "unanimously adopted" (p. 237). On October 26 a slight amendment by the House of Deputies is agreed to (p. 253), and on October 28 final action of concurrence is taken with the other House (p. 266).

In view of the foregoing facts it is easy to explain the readiness with which these five excellent bishops, after only five days' "study," amid the natural confusion and demands of a large body of clergy and

laity, brought in their unanimous report which, after another day, is "unanimously adopted" by the House, namely, that the revolutionary "resolution" of 1808 should now be crystallized into a canon with all the sanction of law.

All of these bishops had probably never known any law on the matter other than this resolution, which was not law, but only the rash and ignorant act of a diminutive House of Deputies. The oldest, Bishop Atkinson (69), was only a baby when the fatal resolution of 1808 was adopted. Bishop Clark (56) was not born till four years later; Bishop Talbot (52) eight years later; Bishop Williams (51) nine years later, while Bishop Armitage (38) was not born till twenty-two years had passed. *They never knew anything different.*

(3) *The Only Reasons Given by the Bishops*

And what, let us ask, are the only reasons which the five bishops give for their recommendation? First of all, that "they are impressed by the attention which the subject has received in several of the diocesan conventions, and the numerous publications upon it by both clergymen and laymen" (p. 229). No mention whatever is made of the character of these publications, nor of the weight of their arguments, but only "*the importance of action by this General Convention.*" In brief, something must be done, that is all. This is the sum of their reasons.

Nor is this the worst. In their next sentence they

proceed to quote with complete confidence "the opinion which the General Convention (?) in the year 1808, pronounced, giving it verbatim, namely: "*Resolved*, That it is the sense of this Church that it is inconsistent with *a* law of God, *and* the ministers of this Church shall not unite in matrimony [italicized words *sic*] any person who is divorced, unless it be on account of the other party having been guilty of adultery." Their imagination as to divine law, custom, tradition, and "the ancient canons" (see the solemn question addressed to them at their consecration, Prayer Book, pp. 529 and 549), did not extend farther back than to the city of Baltimore in 1808, nor even to the revisers of 1789 and the solemn promise that still stood in their Prayer Book (p. vi). Surely here was bathos! The next day, October 23, the proposed canon, with the proviso of the uneducated and turbulent House of thirty-seven Deputies, which so alarmed Bishop White, was reported back from the Committee on Canons and "unanimously adopted" (p. 237).

(4) *The House of Deputies*

This report of the bishops' special committee was *the fullest and the only one* that gave any reasons for their action, even borrowed reasons, from a House of Deputies so insignificant, and concerning whose history they seemed to be wholly ignorant! Let us now turn to the House of Deputies, where conditions are no different. On October 22, Dr. Adams, of Nasho-

tah, offered a proposed canon, and on the twenty-fourth the Committee on Canons proposed one of their own, but both contained the fatal proviso (pp. 105, 106, 122). On the same day the House referred the canon of the bishops to its own committee (pp. 125, 126), and two days later the committee recommended concurrence with the bishops, introducing *for the first time* that very elusive phrase, "the innocent party." Thereupon it was reported to the bishops and by them finally adopted on October 28 (pp. 139, 253, 266), after eleven days of such careless consideration.

Here we have the unvarnished tale of the conception and birth of this revolutionary canon. Neither reasons nor arguments are given for its adoption. And if we consult the verbatim record of the debates in the House of Deputies (providentially ordered by the House, and preserved to us in bound volumes in the Public Library of New York and that of the General Theological Seminary), we shall fail to find there any reasoned argument from Holy Scripture, or logic, or history, in defence of the novel proposal. In fact, one is impressed with the very slight consequence attached to the question.

(5) *The Tradition of the East*

"Let the ancient customs prevail," was a great maxim of the early Church. This was not because the customs were ancient, but because uninterrupted custom through all the centuries "from the beginning,"

as St. John puts it so often, is the best possible evidence of truth; as in the case of the two great sacraments of the Gospel, Baptism and the Holy Eucharist. It is the same great principle of "*continuing stedfastly*" in the apostles' doctrine, etc. (Acts 2: 42), which is given in the Preface of the Ordinal; namely, that "*from the Apostles' time* there have been these orders of ministers in Christ's Church." It is the principle of "continuity" underlying our belief also in Holy Writ, as expressed in the sixth and twentieth of the Thirty-nine Articles.

Only a few words will be necessary from my reply to the letter of the Chancellor of the Diocese of X, whose chief or only difficulty in accepting the plea of our Association was "the tradition of the Eastern Churches" — "the changeless East" — in regard to divorce and remarriage. I referred him to the history of that break with tradition, as given by Oscar Watkins in *Holy Matrimony* (Macmillan Co., pp. 288–302, 346, 347), and as summarized by Bishop Hall in *Divorce in America* (Macmillan Co., pp. 122–127), which found its nemesis in the victorious attacks of polygamous and cruel Mohammedanism in the seventh and following centuries. In fact, the departure of the Eastern Churches from the ancient path is well illustrated in our own case; in our new environment in the West, with outnumbering Dissenters, all committed to the loose and unscriptural ideas of Luther and Calvin and Milton. In America it has taken only a hundred and twenty years to establish in the minds of our own people an utterly false

tradition, unknown still to every other branch of the Anglican Church — a much shorter time than it took in the Eastern Church.

In the East another five hundred years pass, and in the eleventh century, by the inevitable logic of the case, looser ideas were adopted, so that Watkins is compelled to write: " It is not too much to say that at the present day [1895] the Church allows divorce for well-nigh 'every cause'" (p. 317). Only thirty-three years have passed since that was written, and " the mills of God have ground " out the inescapable result in the vast empire of Russia by another power as cruel as that of the Turk.

Here is solemn warning to the world, as well as to America. A single rift in the divine dam of the moral law, just as truly as a single rift in the Church's faith in the Incarnation, leads on logically to the mighty flood that ignores all law and ends in disaster. There is no logical resting place between the easiest of all methods of getting rid of husband or wife and the fifty others provided by our State Legislatures, some harder to endure and to prove than adultery.

Nevertheless, our canon, alone among all the Churches of the Anglican Communion and of the whole Western Church, contains this " inconceivable " falsehood. Thus also, as no Roman Rota ever dared to do, it has been preaching since 1868 that Holy Matrimony is *not* the complete condition and " holy estate " which our Prayer Book declares it to be unequivocally — " for better, for worse, for richer, for poorer, in sickness and in health, till death " —

but only a temporary contract until a civil court declares it sundered; in brief, "trial" marriage. Let us pray that, not only in our own Communion, but among "all who profess and call themselves Christians," this "inconceivable" thing may be forever done away.

CHAPTER XII

THE MARRIAGE CANON CRITICALLY EXAMINED

A THIRD INDICTMENT

(1) *An Historical Sketch* — 1868 to 1928

A SUMMARY account of the many efforts to correct the errors of 1808 and 1868 will be of service here as showing that the question can never be settled permanently until it is settled righteously. And this can only be done, not by what this or that person "thinks," or public opinion demands, but according to the plain teaching of our Lord, and the unanimous testimony and the discipline of the Primitive Church, to which the English reformers constantly appealed for the interpretation of Christ's will.

With the exception of the years 1871 and 1907, the canon on Marriage has been the subject of amendment or discussion in every Convention since 1868. In 1901 the proposal to annul the permission for the marriage of "the innocent party" was passed by the House of Bishops, and received a majority in the clerical order in the House of Deputies,

but failed by one vote in the lay order. In 1904, the same amendment was passed by a large majority in the House of Bishops, but in the other House was defeated by one vote in the clerical order and five votes in the lay order. In 1910, the House of Bishops again adopted the amendment to strike out the proviso, but the other House postponed the consideration of the question to the next Convention.

In 1913, this resolution was referred to a Joint Commission "on all matters relating to Holy Matrimony," consisting of five bishops, five priests, and five laymen, who presented, in 1916, the most thoroughly reasoned report made hitherto, only one member dissenting (see App. XII in Journal of 1916). This document recommended: (a) the omission of the proviso for the marriage of the innocent party, (b) provision for marriage in case of annulment for causes arising before marriage, and (c) provision for admitting to the sacraments persons married in ignorance of, or contrary to, the laws of this Church, at the discretion of the bishop.

When the first of these resolutions came before the House of Deputies, in 1916, on the fourth day of the Convention, the clergy voted for it by 37 dioceses to 28, with 8 divided, but it was lost in the lay order by 32 dioceses against it to 28 for it, with 6 divided. The only action in the House of Bishops was a resolution adopted on the thirteenth day continuing the commission. In 1919, this commission once more recommended the same amendment eliminating the exception in favor of the innocent party,

but again it was lost in the House of Deputies, which took action on the report on the sixth day while the House of Bishops voted only on the fourteenth.

In 1922 the canon was amended, making it unlawful "*for any member of the Church* to enter upon marriage" with a person divorced (still subject, however, to the exception for an innocent party). This amendment was seen to be necessary, inasmuch as hitherto the canon only forbade the clergy *to solemnize* such a marriage, while members of the Church could, and did, go elsewhere to obtain a legal marriage, though contrary to the law of the Church.

In the Convention of 1925, in New Orleans, the Sanctity of Marriage Association presented a petition urging the adoption (in substance) of the canon prepared by the Joint Commission of 1913–1916, and giving Seven Reasons for the same. This was not offered in either House until the thirteenth day of the Convention, when very slight consideration was given to it, and by vote of both Houses a new commission of three bishops, three presbyters, and three laymen was appointed to "study the whole problem," and report in 1928 at Washington.

(2) *The Petition With Its Seven Reasons*

To the Bishops, and Clerical and Lay Deputies of the General Convention, this Association respectfully presents the following:

Seven Reasons for the Elimination of the Novel and Unscriptural Exception and Proviso Concerning the Innocent Party in Canon 43, Section III

(1) Because nowhere in the New Testament is there a single word in support of remarriage of either party after "putting away" during the lifetime of the other.

On the contrary, in every case without exception, Christ's law is absolute and unqualified. It reads, "Whosoever, everyone, that putteth away," etc., "and marrieth another" (Mark 10:12; Luke 16:18; Matt. 5:32; 19:12). This is equally true of His words in St. Matthew, as it is in the other two evangelists.

(2) Because nowhere either in Old or New Testament is there an assumption, much less assertion, of the modern theory that adultery, or any other sin, *ipso facto,* dissolves a marriage, which is not a mere contract but a state or condition.

If this theory were true, it would necessarily follow that both parties were free, and that one or the other had only to commit a single act of adultery in order to be free to remarry, which is an utterly inconceivable inference as to the mind of Christ.

(3) Because nowhere in the history of the first three centuries, when the Church was suffering persecution, and was free from all entanglements with the state, can there be found a single author who interprets the exceptive clauses of St. Matthew about "putting away" as reason for remarriage during the life of the other party.

It was to this age of the Church, when the mind of Christ was fresh in the memory, that the appeal of the Church of England was made for the reform of doctrine and discipline in the sixteenth century. Must it not be our appeal also today? "It is most significant," writes Oscar Watkins in his classic treatise on *Holy Matrimony*, "that the testimony of the first three centuries affords no single instance of a writer who approves remarriage after divorce, *in any case*, during the life of the separated partner, while there are repeated and most decided assertions of the principle that such marriages are unlawful. No writer is found to advocate or admit the remarriage of the innocent husband. *If the voice of the earliest Church is to be heard*," he adds, "*Christian marriage is altogether indissoluble*" (pp. 222, 225, The Macmillan Co., 1895).

With this agrees the ripe judgment of one of the greatest Christian scholars and historians of the nineteenth century. To read into our Lord's words any allowance for the breaking of the bond of marriage, with the right to remarry during the life of the other party, Dr. Döllinger wrote, "goes against language, history, and logic" (*First Age of Christianity*, Vol. II, pp. 265–267, and App. III, p. 366).

(4) Because nowhere since the fourth century, in the whole Western Church, down to the year 1868, was there any canonical allowance for the remarriage of the so-called "innocent party." In that year, 1868, for the first time in the history of the whole Anglican communion, a General Convention of this American Church presumed to overrule the plain

teaching of the New Testament, the teaching and practice of the Church in the first three centuries, and since then of the whole Western Church, by allowing the "innocent party" under certain conditions to remarry.

(For reasons why the great Eastern branch of the Church departed from this scriptural and primitive rule in her canon law, as she did in the fifth and following centuries, it must suffice here to say that the removal of the seat of empire from Rome to Constantinople placed this portion of the Church directly under the influence of a corrupt and half-Christian court, while the distant West remained free from such influence.)

(5) Because the present proviso of Canon 43 is not only contrary to the repeated commands of our Lord, and of the doctrine and practice of the whole Primitive Church, and of this American Church up to 1868, but was enacted in a single Convention of that year, contrary to Article 10 of the Constitution. This provides that "No alteration (of the Prayer Book) or addition thereto shall be made unless the same shall be first proposed in one triennial meeting of the General Convention, and by a resolve thereof be made known to the Diocesan Convention of every Diocese, and may be adopted by the General Convention at its next succeeding triennial meeting by a majority of the Clerical and Lay Deputies of all the Dioceses entitled to representation in the House of Deputies voting by orders." Such is the history of this fatal proviso, which half a century of experi-

ence has proved to be the ever-ready wedge of collusion, fraud, and falsehood, and the despair of honorable judges.

(6) Because, (1) as a merely practical measure, the allowance of remarriage to the "innocent party" places upon the bishops an impossible duty in view of the fact that even with "the Court's Decree and Record" before them, but without power to call and examine witnesses, it is impractical to distinguish between the innocent party (where such really exists) and the guilty. Moreover (2), inasmuch as, in the opinion of many of our judges, at least one-half of all the divorces granted are probably fraudulent or collusive, and that eighty to ninety per cent are granted in default, without defence or rebuttal, how is it possible for bishops, unskilled in law, and without secular powers, to form a right judgment in such cases?

(7) Because, in accordance with our Lord's pragmatic test, "by their fruits ye shall know them," the Census reports for the United States, with their forty-eight codes and fifty-two causes for sundering the bond, show the most rapid increase of divorce of any country, pagan or Christian, in the world.

With such facts before us it should be evident that it is impossible to restrict divorce with remarriage to a single cause. "Where shall the line be drawn if divorce is granted?" asks a high-minded and able non-Christian. "If divorce is granted in the first instance, it cannot be refused in the second or the third. To relieve the misery of the few, shall the expectation of the permanence of the marriage union be destroyed,

and thus misery be imported into thousands of households from which it might have been averted? " (*Marriage and Divorce*, by Felix Adler, p. 48, Appleton, 1915.)

It is noteworthy that, though every member of the Convention received a printed copy of this petition several weeks beforehand, so far as is reported the only objections made were wholly irrelevant. The speakers had much to say about " changing social conditions and overcrowding "; prophecies of dire results for " immorality and religion in the punishment of the innocent " (!), and " there is no use legislating for people who do not care a snap." On the other hand, *no attempt whatever appears to have been made to challenge the truth of even one of the Seven Reasons.*

Arguments like those quoted are not such as one would expect in a council of intelligent and representative Christians, but are rather those of the street and the club, the " liberal " magazine and the sentimental novel, of which the one basis is " hard cases " for the innocent few, as against the well-being and the very existence of society. For, as has been well said, " The sentimentalist is kind only to be cruel, and unwittingly promotes the results which he most deprecates." It would seem in fact as if a great many members of the Convention were of the mind of one lay deputy, who wrote to the secretary on receipt of the petition, " If I have leisure time, I may read the same, but I will not be influenced in any way."

(3) *A Critical Examination of the Canon*

Nor are the "Seven Reasons" of the petition to the Convention of 1925 the only ones that can be urged against the falsehood and wrong of the canon. There are others such as the following:

(1) *Its Evasiveness.* The canon evades saying boldly that adultery *ipso facto* destroys a marriage. Instead, it makes four extraordinary assumptions, namely, (1) that by "fornication" our Lord meant "adultery"; and (2) that this so-called fornication actually sunders the bond of marriage, so that there no longer exists any union between the parties; while (3) it denies the right of remarriage to the guilty party, even on repentance, though it assumes him or her to be now unmarried. Moreover (4) the canon assumes that our Lord, by His "except for fornication" sanctions another marriage, though the sentence admits of no other grammatical construction than that He only sanctions "putting away." The canon also denies, not in words, but by indirection and implication, a fundamental fact both of nature and of revealed religion. For nowhere in the New Testament does Jesus Christ, the Incarnate Son, claim to *originate* a law of marriage, nor even to modify the law. The declaration of our Prayer Book is literally accurate: "With His presence and first miracle that He wrought in Cana of Galilee, *He adorned and beautified* this holy estate." This "first manifestation of His glory" was only meant to lift marriage out of the mire and filth to which it had been so long

degraded, up to that "honorable estate" which God had ordained for it "from the beginning of the creation."

It was for this purpose originally that God guarded it by the unalterable law of the Seventh Commandment. "So serious an exception must have been *expressed*," that is, not left to inference (Bishop Gore, *Question of Divorce*, p. 23). No such exception is claimed for any other of the Ten. Why, it must be asked, should any be claimed for the Seventh? For such a radical change as that which is implied in the canon, nothing short of an explicit amendment or abrogation of the original law is an absolute necessity. This is a principle which is invariably followed even in our civil legislation. But the analogy applies with intensive force to the basic law of all society.

(2) *Its Encouragement to Sin.* The result is inevitable. Parents may point their children to the great affirmations, "Whosoever, every one, who shall put away his wife (or husband) and marry another committeth adultery. If thou wilt enter into life, keep the Commandments. Till heaven and earth pass away, one jot or one tittle shall in no wise pass from the law." But when this is applied to a particular case, the answer of youth and self-gratification comes quickly, "The Church by her Canon Law approves of remarriage."

(3) *Its Degradation of the Office of the Bishop.* But neither Church nor canon approves of it. The Church in her higher law of the Prayer Book forbids it; the canon only requires the Bishop "to declare

in writing that in his judgment the case of the applicant conforms to the requirements of the canon." But in doing so it degrades the Bishop to the position of a mere official recorder of this single fact, namely, that "the innocent party" has not been guilty of adultery, a negative which no human evidence is capable of proving. It deprives him also of his God-given authority to "do righteous judgment," in "shutting" and "opening," and thereby imposes upon him another gross indignity. It does more. It condemns him to allow by silence a marriage which his knowledge of God's will forbids him to sanction, and his conscience abhors.

On the other hand, (2) if the Bishop is not satisfied that "the case of the applicant conforms to the requirements of the canon," and he withholds his allowance, or if "any Minister," Priest or Bishop, "declines to solemnize the marriage," as he is permitted to do by the canon; *there nevertheless, stands the canon proclaiming to most willing ears that the Church allows, or even approves of, what is in fact the easiest method of getting rid of husband or wife; thus actually inciting to sin.*

Much has been said recently about Christian education, and not law, being the only worthwhile remedy for our present national disgrace. It is forgotten that law, whether civil or ecclesiastical, is one of the most powerful of educators, especially when it teaches what is dear to the natural heart; and that is what our canon is doing continually, undermining and counteracting what pastors and parents are teaching.

Once more (3), if the Bishop does give his permission, and a Minister is found willing to act, solemn pledges once before spoken and broken are repeated before God, to be broken, it may be, again and again at will, and benediction becomes blasphemy. Thus it happens that many young people, and their elders also, are led to look upon the proviso of the canon as a perfectly lawful resort to which they may always appeal in case of mistake or disappointment in their choice. *And thus this holy estate becomes in effect nothing short of "companionate" or "trial" marriage.* One of the saddest features of many such cases is that the parties are victims of this false teaching and to be pitied, rather than willful sinners to be greatly blamed. But the Church, or those who uphold this teaching, cannot escape either blame or shame.

(4) *Its Injustice.* To everyone who has had experience of the working of the canon, its injustice also will be evident. The real basis of the supposed exception is the modern theory that adultery, above all other sins, has the satanic power of destroying instantly, by a single act of passion, what God has joined together in "one flesh." There are of course special reasons for placing adultery in a class by itself, and for allowance to "put away" an unfaithful husband or wife, *though not forever.* Yet adultery, heinous sin as it is, never received from the lips of Christ the woes which some other sins received — hatred, greed, cruelty, hypocrisy — sins of cold deliberation, and not of passion. Contrast with these His infinite patience and

mercifulness with the woman taken "in the very act"; and His gentleness with the Samaritan at the well, victim of a false religion: "Neither do I condemn thee. Go (seek thy husband's forgiveness) and sin no more," is His judgment to the one. "Thou saidst well, 'I have no husband,' for thou hast had five husbands; and he whom thou now hast is not thy husband," is His equally gentle rebuke of the other.

If this theory concerning adultery is true, and the marriage relation no longer exists for either party, why, it must be asked, does the canon compel the guilty party to endure the unreasonable punishment of lifelong celibacy, while it allows the so-called innocent party to remarry at pleasure? Though the bond is broken, is the guilty party married and bound, while the innocent one is unmarried and free. Here, surely, is not only excessive punishment, but sheer injustice.

(5) *Its Inconsistency.* Another consequence of this false theory of the magic power of adultery is the gross inconsistency of the canon. It is well known to judges and lawyers that decrees of court as to causes for divorce are no true evidence of actual commission of guilt. In order to hide greater shame, desertion, or what is regarded as some less disgraceful reason, is often given, where the real reason is infidelity, of which there may be the most conclusive evidence.

Nevertheless, the Church in General Convention has refused to establish a court of her own to "judge righteous judgment," and "not according to the ap-

pearance," as distinctly commanded by our Lord. By that refusal she denies justice also to the so-called "innocent party" by forbidding the solemnization of a new marriage, *though she holds that the divorced parties are no longer man and wife.*

Or take a still more flagrant case. The guilty party, after being divorced for some other cause than adultery, marries again, as the civil law allows. The evidence of real adultery on his or her part is now of public record, and according to the false theory, the bond is now unquestionably broken. Nevertheless, the canon still condemns the "innocent party," though presumably unmarried, to live a life of celibacy.

(6) *Once More, the Canon is Cowardly.* Again and again, General Convention, or a small majority of its members, has almost contemptuously refused to make provisions for the proper adjudication of cases that are frequently arising where our civil courts, under the law, can allow only a divorce from the bond, instead of a judicial declaration of nullity when there has never been any bond as in the case of bigamy or fraud. Eight of our states make no provision for annulment whatever, and many others grant divorce for causes which, from the Christian point of view, demand only annulment. Yet the canon gives no relief in such cases.

It is freely admitted that the Church has neither power nor need to interfere with the civil authority in such inconsistent, stupid, and ignorant legislation, except to use its utmost persuasion to correct it.

When the civil power dissolves a marriage, it does so only within the sphere of the State, though the marriage may continue to be lawful in the Church's eyes. When the civil power decrees a marriage to be lawful, it *is* lawful for all civil purposes in the State, as for the protection of children and property, and all other civil rights; though it may not be lawful in the Church's eyes. These are elemental truths. Each estate is supreme in its own sphere, and there is no need whatever for conflict.

But when the State, in its forty-eight divergent and sometimes contradictory codes on marriage, presents such confusion and such ignorance of first principles of justice and jurisprudence, as to allow a man to be legally married in one state, though a bigamist in another; when it fails to see any distinction between divorce and a judicial declaration that no marriage ever existed; when it treats the law concerning the greatest of all contracts with such indifference as would ruin the finances of the nation in a year if applied to common contracts (which with strange inconsistency are sacredly guarded in our Constitution); it is nothing less than criminal and cowardly for the Church deliberately to deny her children the remedies which the Great Head of the Church Himself has commanded her to provide for such conditions.

In my long ministry of fifty-nine years, I have had to deal with more than one such case. One is typical. My friend X, a high-minded gentleman, asked me to marry him to a faithful communicant. He had been

married by one of our clergy to Mrs. A., who made declaration in her license that she was a widow, but was in reality a divorcee. By the civil law, therefore, the marriage was voidable on account of fraud. By the divine law, it was doubly void, by fraud and by having a husband living. Condonation by continued cohabitation after discovery of the fraud made the second marriage valid under the civil law (compare the Marlborough case), the divorce having already freed her from the first bond. Later she left X to take a third " husband," and once more she was freed by a divorce. X was now free by both divine and civil law.

After long delay in securing proof of the facts, and evidence that No. 1 husband was still alive (important because of the " common law " of marriage), I laid the matter before my Bishop, and he consulted a distinguished lawyer, whose impossible advice was that X should apply for a decree of nullity for a marriage which had already been annulled in fact, if not in form, by a second divorce.

Thus, while neither the divine law nor the civil law put any obstacle in the way of my friend's marriage, the canon did, because he was not " the innocent party in a divorce for adultery! " It also threatened me with discipline if I should dare to grant his request. Needless to say, I did dare, and I was never brought to a trial, nor even indicted. And this is but one of a long series of the injustices, contradictions, inconsistencies, and absurdities of closing one's eyes to the law of God in our present canon.

Nevertheless, the General Convention, or a small majority of its members, still persists in disobeying our Lord's command to "judge righteous judgment." It is true that by word and example He refused to be "a judge or a divider" in material concerns, and was careful to leave to Cæsar the things of Cæsar, but He was equally insistent to claim for God the things of God. He bade men "Hear the Church," and by "Church" He did not mean a little close corporation of ecclesiastics, such as that foreign court whose unjustifiable decision has recently been made public; but the Church in its representative capacity of bishops, other clergy, and people. It is for this very purpose He has given it authority in all questions of faith and morals to "open and shut," to "bind and loose," to "forgive and to withhold forgiveness."

Yet in spite of all this, the American Church, alone among all the branches of the Anglican communion and of the whole Western Church, thus far has refused to provide for this most sacred and important of all human relations, by creating a court of its own for the application of Christ's law, to remedy the defects of human law. And for what reason? Apparently only because another great division of the Church has brought much shame on the Christian name by its methods. And also, because of confessed difficulties in the work; in other words, cowardice in facing a plain duty to administer justice to her own people. Meanwhile, she has been obliged to "muddle through" by a system of

lawlessness and *laissez faire*, and not always without scandal.

(7) *Finally, the Canon is Impossible of Administration.* Here is the question of the "innocent party." This word "innocent" did not appear in the resolution of 1808, probably as a result of the wisdom of Bishop White. Its first appearance is in the canon of 1868, and it is here still. Yet nowhere is it to be found in our Lord's teaching about marriage. In fact, it only occurs once in all the New Testament, and that, not concerning the only truly Innocent One, but in the claim of His cowardly and corrupt judge, Pontius Pilate, when he tried unsuccessfully to escape responsibility for the greatest crime in all history by washing his hands, and applied the word to himself and the sin to others.

What then is meant by "innocent" in the canon? Only of a particular sin? That does not go very deep. Our Lord once applied that test about innocence to a number of very gentlemantly persons, who brought into His presence a woman for His judgment. "He that is without sin among you, let him first cast a stone at her," was His reply. And when they heard it, "they went out," showing their fine breeding and also their guilty consciences by going, "one by one, beginning from the eldest, even unto the last" or youngest.

But one has no need to go so deep as that test. What about mere provocations, that lead or drive to unfaithfulness? What about nagging, and neglect, and ugly temper, and selfishness, and a hundred other

things that may be just as real signs of the absence of innocence as the one named in the canon? This is the hard question set before our bishops for judgment. But who is sufficient for these things?

(4) *To Sum up this Strange and Sad Story*

Let me briefly remind you again of the chief facts in the case. For 267 years this infant Church of America, endowed with a pure faith and a right code of morals and discipline, for the light and guidance of the crowding multitudes coming to our shores, lived under the Christian law of marriage as held by the undivided Church of the first ages. Sixty years ago, a majority in our General Convention enacted hastily and unconstitutionally a new and revolutionary canon and doctrine. This canon, moreover, is a bundle of inconsistencies, contradictions, injustices, and impossibilities of administration.

With only two exceptions, the canon has been a subject of debate in every Convention since 1868. In three, the House of Bishops adopted the resolution to strike out the fatal proviso. In two others a joint commission, after six years' (1913–1919) consideration and careful study, recommended the same action; only to be met, however, by the obstruction of a small majority, for the most part among the untaught or unwilling learners of the lay deputations. With this notable exception, the question has never been examined to the core, either critically, logically, or his-

torically. The treatment of the House of Deputies in 1925 was a typical instance in its utter irrelevancy, its failure to challenge even one of the seven reasons urged in the petition, or to apply the great pragmatic test of our Lord Himself: "By their fruits ye shall know them."

(5) *The Canon at the Bar of History*

In these days of hustle in both thinking and action, it is surely wise for us all to heed the command to ancient Israel to "stand, see, and remember," and "ask for the old paths" that are as ancient as creation itself, and as straight and inflexible as the law of gravitation. For, great as may be our advance in the physical sciences, and our possession of greater wealth and power than was ever entrusted to any other nation, "the Ten Commandments will not budge," no, not even the Seventh.

It was said recently by an able historical student that it was unfortunate that the mass of Americans "did not draw on the past for present counsel." In the sixth century, the great Eastern Church, under the pressure of the worldly and corrupt court of Constantinople, departed just a little from the straight and ancient path of God's Seventh Commandment, and in five hundred years found its nemesis in the crushing onslaughts of Mohammedanism with its religion of polygamy, lust, and murder. In the eleventh century, her Russian daughter departed farther from the path, and today we see her nemesis in the barbaric

power of the Soviet, which is a denial of all morality and all religion.

Looking back only three hundred years in our own favored land, we have seen the same inevitable process going on. An infant Church neglected by its parent, persecuted here and suspected, forbidden by the state the possession of its full Apostolic Ministry and freedom of government, was necessarily crippled in enforcing its godly discipline. So weak it was, even twenty-four years after it gained its freedom, that a Convention of only twenty-nine members yielded to pressure and ignorance in expressing an untrue opinion, which, sixty years later, bore fruit in a canon hastily adopted, in a few hours of a single session, ignorantly and illegally; contrary also to the pledge of the revisers of 1789, and to the doctrine of the Prayer Book itself, as well as to the tradition of 1800 years, and to the plain teaching of the New Testament. Thus, out of all branches of the historic Church of the English-speaking race, this American Church stands alone, so far as a canon can accomplish it, in unfaithfulness to the very foundation and security of the home and family, and eventually of the nation.

And with what result? The result that always comes whenever any fundamental principle of morals is given up, even in the smallest detail. The door of exit seemed so very small (" Is it not a little one? ") but lo, in less than fifty years, fifty other doors have been opened wide by our legislatures in acceptance of our logic! No less than 184,741 divorces and annulments were granted in the United States in the

single year 1926, or one divorce to every 6.50 marriages, and in some states one to 4.51 (Texas), 3.83 (Missouri), 3.89 (Ohio), 2.27 (Oregon), and 1.17 (Nevada). Canada's rate in 1925 was one to 121 marriages! Here is "trial" or "companionate" marriage in reality. And what will the end be in twenty years? [1]

The answer depends largely on what the Church of Jesus Christ in this land, and all faithful Christians, will do in the coming years. Are they to continue in blind and smug contentment with this condition, regardless of what may happen to the rest of the world? Much will depend on what study and honest thought are given to the question. The prayers of every faithful Christian and patriotic American should be offered up continually for their enlightenment and guidance.

[1] The latest report (for 1929) released Oct. 15, 1930, gives the figures as follows: Divorces, 201, 475; Annulments, 4400; an increase in divorces of 2.8 percent over 1928.

The following states showed a very marked increase: Oregon, 4.1; California and Ohio, 4.61; Mississippi, 5.1; North Carolina, 6.1; Rhode Island, 6.2; Oklahoma, 6.3; Maryland, 6.8; Florida, 7.3; Arkansas, 9.6; New Mexico, 11.6; Georgia, 12.3; Nebraska, 12.4; Louisiana, 13.2; Michigan, 13.8; District of Columbia, 13.9; North Dakota, 21.7. Seventeen states show a varying decrease in divorces from 0.1 per cent in Wisconsin to 5.9 in Wyoming.

CHAPTER XIII

THE CANON IN THE LIGHT OF THE BETROTHAL OF THE VIRGIN MOTHER

An Explanation and a Defence of the Accepted Text of St. Matthew.[1]

(1) *Fornication is not Adultery*

SIXTY–TWO years ago, by a strange fatality, the Church of the Transfiguration in the City of New York, whose constant carefulness about the solemnization of Holy Matrimony is so honorably known, was the meeting place of the House of Deputies of the General Convention of 1868. It was there and then, as was shown in Chapter X, that the law and discipline concerning marriage, which had been that of the undivided Church of the first three centuries, and of the whole Western Church, including every branch of the Anglican Communion ever since, was illegally and hastily rejected after impatient refusal to refer the matter (for the first time) to a Joint Commission for careful study, and a scant three or

[1] Reprint from *The Living Church* and *The Southern Churchman.*

four hours' debate, notably lacking in scholarship and relevance.

The solitary passages on whose mistaken interpretation this action was taken are two similar and identical clauses, each of only three words in the Greek of St. Matthew (5: 32 and 19: 9). A dozen years before this, a special study of the question had been made by great scholars, notably by Mr. Gladstone in England, and Dr. Döllinger on the Continent of Europe, who with critical acumen showed the fallacy of this interpretation, verbally, grammatically, and logically (see *The Profound and Matchless Oneness of Christian Marriage*, *Quarterly Review*, London, 1857; and *The First Age of Christianity*, Döllinger, Trans. by H. N. Oxenham, 1866, vol. II, pp. 226–236, and App. III, pp. 310 *sq.*).

From another point of view the authenticity of the exceptive clauses is seriously questioned by many of the ablest and most conservative critical scholars of today. Bishop Gore writes: "The critical conclusion that the exceptive clause is an interpolation . . . represents an impressive consensus of scholars from Germany, France, America, and our own country (England) — a consensus of scholars moreover, who, as being mostly Protestants in conviction, were predisposed in favor of the laxer view of the marriage bond" (*Question of Divorce*, p. 23).

The chief ground for this "critical conclusion" of eminent scholars in regard to the exceptive clause (which they attribute to the hand of a Jewish Christian editor of the first century) is this, that to interpret

it as allowing remarriage after divorce for adultery is inconsistent with, and in effect contradicts, the united and absolutely *unqualified* testimony of St. Paul (the earliest of all recorders of Christ's teaching), as well as that of St. Mark and St. Luke, who make no mention whatever of such an important exception, and evidently knew of none (see 1 Cor. 7: 10, 11, 17; Rom. 7:2, 3; St. Mark 10:2–12; St. Luke 16:18).

That the exceptive clause is an early gloss, marginal note, or interpolation of a Jewish editor of St. Matthew is probably true. But that fact alone should teach us that it was never meant to contradict three other witnesses to Christ's teaching. This will appear if we read it in the light in which Jewish Christians would read it, and as we know that the whole primitive Church understood it, and not as the members of the General Convention in New York read it 1800 years later.

In that hasty and illegal vote in 1868 the Convention evidently acted on three assumptions: *First*, that when, or if, our Lord used the word "fornication" He meant adultery; *Second*, that adultery *ipso facto* sunders the bond which, almost in the same breath He declares "man" dare *not* sunder; and *Third*, that this "fornication" justifies the remarriage of at least one of the parties, who is assumed to be "innocent." That there is no ground for any of these assumptions is the contention of the writer. In the present chapter, however, it is intended to examine only the first, namely, the bold transformation of "fornication" in the text into "adultery" in the canon.

That fornication and adultery are *not* synonymous both passages plainly testify, for in both adultery is only used to define the sin of a married person, or an unmarried person who marries one who is divorced. Nor is this the only place where our Lord sets these two words in contradistinction. In St. Matthew 15: 9 we have, "Out of the heart proceed *adulteries, fornications,*" etc. In St. Mark 7: 2 we have "*fornications,* thefts, murders, *adulteries.*" So, in 1 Cor. 6: 9 we have "Neither *fornicators,* nor idolators, nor *adulterers* shall inherit the kingdom of God."

Adultery in a loose way may be called fornication as including *all* illicit intercourse, even incest (1 Cor. 5: 1); but fornication *of itself* can no more be forced to mean adultery than to mean incest. The two words, placed as they are in this close contact and evident contrast show plainly that they are *not* synonymous, but that each has a definite meaning of its own, *for which also there is found in this Gospel of St. Matthew a very definite reason.*

It is to be remembered that the Gospel which stands first in the New Testament has this peculiarity that it was written primarily, as every page shows, for the "peculiar people" whom God had chosen for the blessing and the dread responsibility of the full revelation of His will. While, therefore, the three other Gospels were written in Greek for the great world beyond Palestine, that of St. Matthew was written first in Aramaic, the Palestinian dialect of Hebrew. It is then to the Old Testament that we must

turn for an explanation of the particular exception or allowance for "putting away" which our Lord had in mind, if He is correctly reported, namely, that of a woman betrothed but not yet actually married (see Deut. 22: 13–29; 24: 1, 2).

(2) *Betrothal a Sacred Ceremony but not in Itself Marriage*

The learned Jewish scholar, Dr. Edersheim, a priest of the Church of England, tells us how sacred a matter betrothal, or as we would say "engagement," was regarded by his Jewish countrymen. It took place "in the presence of witnesses — either by solemn word of mouth, with the added pledge of a piece of money, or else by writing; and the ceremony would conclude with a benediction." Then, writing concerning the betrothal of the Blessed Virgin of Nazareth, he says, "From that moment Mary was the betrothed wife of Joseph" (*cf.* 2 Sam. 3: 14), though they had not "come together" as such (*Life and Times of Jesus the Messiah*, Vol. I, Book II, pp. 149, 150, Longmans, 5th ed. See also St. Matt. 1: 18–20).[2]

[2] This solemnity attending betrothal had its wholesome counterpart in the Mediaeval Church of England in what may well have been the survival of a similar custom in the early Church. The betrothal or engagement was made, sometimes long before the actual wedding, not in the church proper, but in the porch (*ante ostium ecclesiae*). In fact a faint relic of this good custom still lingers in the questions, "M. Wilt thou have this woman, or this man," etc., addressed to the parties at the beginning of our present service, and generally said in the nave or entrance to the choir; while the final troth is given, with ring, and clasped hands, and benediction, at the chancel rail.

But all this solemnity of betrothal or espousal among the Jews did not constitute marriage, any more than it would today in America, either under Church or State. Though thus "entered into reverently, discreetly, advisedly, soberly, and in the fear of God," something was yet lacking. It was still only a solemn contract and promise that must eventually be fulfilled by cohabitation as "one body," "one flesh," which is called "consummation." Before that event the plighted promise might be broken by unchastity, or refusal to cohabit, and the so-called marriage would be voidable, though not necessarily void. A divorce granted under such circumstances would be the equivalent of a declaration that there had never been a true marriage; in other words, it would be only official recognition of the breach of a most solemn contract.

These then were the circumstances, under the Mosaic law, by which a betrothal or engagement to marry, which was commonly spoken of as a "marriage," though not consummated, could be cancelled, because of fraud, or the bride having committed fornication, or by her refusal to cohabit.

(3) *Putting Away for Fornication no Sundering of a Bond*

Here was no sundering of a bond, for no bond yet existed. Fornication was the sin of the unmarried, and after the annulment of what was only a solemn engagement, the future marriage of either party was

not forbidden. On the other hand, adultery is the sin of the married, after the bond of the "one flesh" had been formed by consummation. Here, while both parties remained alive, there could be no remarriage for either, though the scribes or lawyers of the day, like some of their modern representatives in our own legislatures and courts, stretched and perverted the ancient law to allow divorce from the bond "for every cause" (St. Matt. 19: 3).

This union as man and wife could not be created by mere promises, no matter how sincere or sacred, but only by the power of God in cohabitation, of which the procreation of children was the purpose and gave the proof. So also, as a natural relationship like that of brother and sister, of father and son, God alone could sunder it, and that only by death. Under the crude law of Moses enacted for a nation in its moral childhood, in case of adultery by the wife, this sundering was done vicariously by the act of man in stoning. But under the higher law and grace of Christ, the Restorer of the law which had been "from the beginning of the creation" (St. Mark 10: 6), this could henceforth only be done by the direct act of God in natural death (St. John 8: 7, and Rom. 7: 2, 3).

Every Jewish listener, therefore, would readily recognize this distinction as the words, "Except for fornication," fell from the lips of Christ on the mountain side, or as they read them later in the Gospel of St. Matthew. They would not mistake betrothal for real marriage, or fornication for adultery. Inter-

polated there as a marginal note of explanation for Jewish Christians, "the excepting gloss," Dr. E. G. Selwyn writes, would become "a true gloss, and one which, as we can well believe, He (our Lord Himself) would have endorsed" (*Theology*, S. P. C. K., August, 1927, p. 99).

"It is inconceivable," Dr. Döllinger writes, "that Christ . . . could have used in a crucial statement an ambiguous word (*porneia*), leaving ample scope to those desirous of divorce, when just afterwards He twice uses the proper word adultery (*moicheia*) . . . If Christ taught that marriage could be dissolved by adultery, St. Mark, St. Luke, and St. Paul withheld this important fact from their readers, and misled them by misrepresenting the case; so that the Churches had first to learn the truth from the Greek translation of St. Matthew, and there discovered that St. Paul had, to say the least, expressed himself very inaccurately, in repeatedly describing marriage as a relation that could only be dissolved by death" (*The First Age of Christianity*, II, p. 266, Oxenham translation, Allen and Co., London, 1877).

"On this theory," Döllinger says elsewhere, "either party can any moment destroy the marriage; and, if feeling it a burdensome yoke, or violently enamored of another person, is strongly tempted to annul by one act a contract formed for life; while the innocent party, no matter how anxious to forgive and preserve the marriage relation, must recognize and accept the actual dissolution of the marriage, and let the children of the guilty party be left fatherless or

motherless. This interpretation of the words of Christ," he writes elsewhere, " *goes against language, history, and logic*" (*ib.* II, Appendix III and p. 366).

(4) *The Exception in the Light of the Betrothal of the Virgin Mother*

And the supreme test of this false interpretation of the words, "Except for fornication," which would make fornication identical with adultery (with utmost reverence be it said), may be seen in the espousal or betrothal of the Holy Virgin of Nazareth to Joseph, as given by two Evangelists: one writing especially for converts from Judaism, the other for Gentiles (St. Matt. 1: 18–25; St. Luke 1: 25–35). " When, before they came together, she was found with child by the Holy Ghost, and Joseph was minded to put her away privily," it was not adultery she was charged with by her neighbors, for which the penalty was death. That charge was impossible because, strictly speaking, she was as yet unmarried, though her betrothal was such a ritual solemnity that it was common to speak of Joseph as " her husband " and of her as his " wife." Nevertheless, that false charge was the first sharp thrust of the promised " sword " that even then " pierced her own soul," the " stigma " that continued to make her " partaker of the sufferings " of her Divine Son for thirty-three years, even to the agony of the cross (St. Luke 2: 35; 1 Peter 4: 13).[3]

[3] In this connection the silence of *both Evangelists* in regard to a

It has been beautifully said of the archangel's glorious message to her, "He who came with lilies brought a sword." Nevertheless, it can also be said of her,

> "Soul-piercing sorrow thou canst well afford
> On whose meek head God's hand of grace is laid."
>
> *Howard Chandler Robbins.*

The only charge, therefore, that could be brought against Mary by those ignorant of her glorious honor as the future mother of God Incarnate, was not adultery but prenuptial unchastity or fornication, which if true would justify Joseph in annulling their engagement. And so, believing this to be the case, and "being a just man," and merciful withal, he "was minded to put her away [not publicly in the court of three rabbis, called the Beth-Din, but] privily," until the Divine messenger came to him and said, "Fear not, Joseph, to take unto thee Mary thy wife, for that which is conceived within her is of the Holy Ghost" (St. Matt. 1: 18–20).[4]

In the light of the foregoing facts there should be no doubt as to our Lord's meaning when He used the words "except for fornication," if He did really use them; or if they are only an early editor's note

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formal marriage ceremony with its accustomed feast, as in the story of Cana, and the parable of the Ten Virgins, is very suggestive as throwing the betrothal into greater prominence, if not leaving it absolutely solitary.

[4] This explanation of the exceptive clause has been ably treated by the Rev. F. S. Stooke-Vaughan, M. A. of St. John's College, Cambridge, in a pamphlet published by Eland Brothers, Exeter, England, 1927.

of explanation. It was thirty years after this blended sorrowful and joyful experience of the Virgin Mother that He addressed them on the Mount to a great company of His countrymen who were familiar with the law of Moses, concerning marriage and betrothal. The second time was in the last year of His ministry on earth, while addressing learned Pharisees and disciples, but in both cases the exceptive word is " fornication " and not adultery.

Divorce, with its concomitant adultery, was then, as now in America, the cancer that was eating out the very life of both family and nation. That was literally " an evil and *adulterous* generation " (St. Matt. 12: 39). And in view of such sensuality it is evident that our Lord's deliberate choice of a marriage feast as the scene of His first miracle, for " the manifestation of His glory," was intended to emphasize one primal purpose of His incarnate life, namely, the purification of the home as the very heart of all social order.

Under such circumstances it is inconceivable that the Lord Jesus *could* declare that the instantaneous effect of a single act of adultery sufficed to " sunder " what elsewhere He had declared " man " must not sunder. That would be a doctrine so dangerous as to prove the greatest possible incitement to sensuous passion. So monstrous in fact is this theory that *logically*, though not legally or factually, it would leave a large proportion of men and women of every generation no longer man and wife, but living together only in concubinage! On the contrary, in all Christ's

sayings His utmost assertion is that adultery is the profanation of marriage, but never its destruction.

And as Christ's spoken words must have impressed His *hearers*, so His words written some thirty years later, in Hebrew or Aramaic especially for Jews of Palestine, or else translated into Greek for those Jews who spoke Greek only, must have been equally intelligible to *readers*. For under the Mosaic law there was a wide distinction between fornication and adultery. This was true also among pagans by whom fornication was very lightly regarded, while adultery was a crime against one's neighbor punishable by heavy fine or otherwise. But among the Jews for adultery the only punishment was death, and that by stoning. Neither Jew nor Gentile could be in danger, therefore, of confusing the two words. So also, in view of the well known Jewish law of betrothal, and the " marriage " of the Virgin Mother, neither Gentile nor Jewish Christians could read into the exceptive word " fornication " the meaning of adultery.[5]

" Except for adultery " would mean nothing less

[5] Compare Acts 15:20, 29 and 21:25, where fornication is placed on the same level with mere ritual matters among the heathen, such as eating flesh " sacrificed " to idols, or from which the blood had not been withdrawn as in Jewish *kosher*. In fact among pagans, while adultery was severely condemned, fornication was actually consecrated by religious rites. " The Apostles did therefore," writes Bishop Sanderson, " join fornication and those other indifferent things in the same Canon, because the Gentiles accounted fornication a thing as indifferent as what was most indifferent." (See Bp. Christopher Wordsworth, Greek Test. *in loco*.) Compare also 1 Thess. 4:3, and Eph. 5:3, where St. Paul finds it actually necessary to remind Gentile Christians that " fornication " is no permissible weakness of the flesh, but a grievous sin, contrary to " the will of God."

than " Except for death by stoning," and that would be a mere platitude, needless to address to a company of Jews who knew well the punishment which the law imposed on every adulterer. Yet this was the gross error and wrong committed by the General Convention of 1868, when it transformed " fornication " in the Gospel into " adultery " in the Canon.

(5) *Christ's Judgment on the Woman Taken in Adultery*

If further proof were needed that adultery has no rightful place in that excepting clause as allowing remarriage for either innocent or guilty, we would find it in " the most exquisitely told story in the New Testament . . . the one occasion when our Lord was asked to adjudicate on a woman taken in adultery " (St. John 8: 1–11). Great as is her offence He completely ignores the old death penalty for her sin.[6] He defends her from her hypocritical accusers, sending them away ashamed, refusing to condemn the penitent, only bidding her " Go, and sin no more "; return, that is, to her husband for *his* pardon, even as He had already pardoned her. Here we find neither word nor sign of the destructive power of adultery to break the bond of marriage.

Of this most telling incident Dr. E. G. Selwyn writes: " Nothing whatever in our Lord's teaching leads us to suppose that He would have ' The Law of Forgiveness ' [seventy times seven] stop short of

[6] " This case implies that the Mosaic punishment [death by stoning] continued in full force " (Döllinger, p. 269).

cases of adultery. His whole treatment of sexual sins rather implies that, fearful as He knew them to be, He did not regard them as so disastrous to character as others such as pride. If the excepted clause stands, if it applies to adultery, and if it means that adultery *ipso facto* dissolves a marriage, then that sin has to be taken out of the category to which the duty and even the possibility of forgiveness applies" (*Theology*, pp. 96, 97, S. P. C. K., London, August, 1927). For remarriage effectually shuts and seals the door against reconciliation and forgiveness. Here, therefore, we have no mere theory but a stubborn fact. Our civil legislation on some other great offences teaches us better than that.

"Why, then," Dr. Selwyn continues, "do we not find the excepted clause [also] in that passage where Jesus bids men forgive one another their trespasses unto seventy times seven? Why does He, on the contrary, appear as inculcating the duty of mutual forgiveness in terms which seem to admit of no qualification whatever? . . . We shall require something more than the doubtful interpretation of three words peculiar to St. Matthew, before we accept such a [contradictory] conclusion as true."

(6) *The Unanimous Testimony of the First Three Centuries*

Finally, it is simply an historical fact that the Church of the earliest age saw nothing whatever in the two passages to support the theory that either

fornication or adultery *ipso facto* sunders the bond of marriage, or that adultery was the one sin for which there was no forgiveness. "The testimony of the first three centuries," writes Mr. Watkins in his classic treatise, *Holy Matrimony*, affords no single instance of a writer who approves remarriage after divorce *in any case* during the life of the separated partner" (Macmillan, London and New York, 1895, pp. 222, 225, 226).

And this same testimony, to which the English reformers in the sixteenth and seventeenth centuries made their constant appeal should be equally convincing today to every intelligent and unprejudiced reader of our Lord's words, whether they are really His, or are only the gloss of a commentator. He who "spake as never other man spake," and whose sacred Name is "The Eternal Word," was never otherwise than positive in His language; authoritative, unhesitating, and unqualified by any "if."

Whether, then, "Except for fornication" be the mere marginal note of an editor, or else the articulate speech of "The Word who was in the beginning with God and who was God," the words that follow that exception would still be everlastingly and universally "The Truth" as when He first uttered them: "Verily, verily, I say unto you, whosoever, everyone, that shall put away his wife and marry another committeth adultery against her; and if she herself shall put away her husband and marry another, she committeth adultery."

Here is no mere holding up of an "ideal" as some

would have it, but the application of the Seventh Commandment to a particular case, by our Eternal Judge Himself — a double appeal, therefore, as when He said, "If ye love Me keep *My* Commandments."

Well then may this American Church, and every member of its great Triennial Council, lay to heart the solemn warning of St. John Chrysostom, the fearless Archbishop of Constantinople, amid conditions of faith and morals very similar to ours, and whose prayer for "knowledge of Thy truth" is constantly on our lips in the service of the Church:

"Read not to me the laws which have been enacted by those without the law, commanding to give a bill of divorcement, and to put away. For in That Day God will not judge thee by those laws, but by the laws which He Himself has imposed."

Note — It is not to be inferred from what is here written that unqualified condemnation should be inflicted on those who have ignorantly and in good faith entered into unions which are contrary to Christ's will. This applies especially to those who have been misled by the false proviso of our canon. *Any correction of the canon must have no retroactive effect.* The Church herself as a whole must share the blame and shame of the errors of the past sixty years.

CHAPTER XIV

THE LAST RESORT OF OPPONENTS OF CHRISTIAN MARRIAGE[1]

(1) *The Witness of the New Testament "Mutilated, Unhistorical, and False"*

THE latest illustration of the extreme to which the opponents of the indissoluble character of Christian marriage are driven is a bold attack on the accuracy of St. Mark's account of Christ's teaching in 10: 2–12, and incidentally that of St. Paul and St. Luke, by a prominent clergyman of the Church of England (*Divorce and Nullity*, by Dr. R. H. Charles, Archdeacon of Westminster, T. and T. Clark, Edinburgh, 1927).

The particular purpose of this volume is to "prove," from St. Matthew 5: 32 and 19: 9, (1) that "fornication" in the same sentence with "adultery," means adultery; and (2), that "when the husband is disloyal to his wife, or the wife to her husband, the marriage is *ipso facto* dissolved"; and "the state in issuing the decree of divorce is not putting asunder those whom God hath joined together, but is only recognizing the already existing fact, that, by the dis-

[1] Reprint from *The Living Church* and *The Southern Churchman*.

loyalty of either or both, the persons in question have already put themselves asunder " (pp. 2, 3).

Without going into the special pleading with which the author reaches this conclusion, it is only necessary to call attention to the extraordinary dogmatic way in which this thesis is " proved." It is little less, in fact, than a series of unsubstantiated assertions that St. Mark's account of our Lord's words in 10: 2–12, dealing with the same incident as that recorded by St. Matthew in 19: 3–9, is entirely wrong, " mutilated, distorted, untrustworthy, unhistorical and false, obviously rewritten to prove a dogma " (*passim*). A few quotations, strung together, as they are, by a slender thread of argument, will show the short and easy way in which this is made " obvious."

" Let us now compare the narratives in the first two Gospels which are so *hopelessly at variance on this question* " (p. 6):

" These eight verses (Matt. 19:3–9) ought not to be taken in connection with the three that follow (10–12)" (p. 8).

" The question put by the Pharisees is authentic in Matthew, but unhistorical in Mark — and put in a form impossible for any sane and self-respecting Jew " (p. 9).

Referring to the question of the Pharisees, " Is it lawful for a man to put away his wife for every cause " ? the author writes, " In Mark this question has been mutilated, and the form in which it has been transmitted is unhistorical and false " (p. 10).

" In this much edited and distorted narrative in Mark these words make it clear, etc." (p. 15).

" Mark's narrative contains another misrepresentation of fact in ascribing to Christ the wholly gratuitous and un-

historical statement that the wife was not to divorce her husband" (p. 17). "It is unhistorical," he adds, "in other respects. First, it contains another gross mis-statement of facts. Secondly, it assigns to the Pharisees words which were uttered by Christ, and assigns to Christ words which were used by the Pharisees" (p. 17).

"The disordered text of Mark compared with the clear and logical order of Matthew. The former untrustworthy from start to finish" (p. 22).

"But we have not yet exhausted Mark's inaccuracies. . . Mark represents our Lord as weakly asking, 'What did Moses command you?'" (p. 24).

"Thus the entire narrative in Mark is false in its statements of fact, and hopelessly feeble in its style" (p. 25).

In his "Summary of conclusions," Dr. Charles writes: "It is my aim to show that Matthew *deliberately* (italicized in p. 6) rejected the narrative in Mark as unhistorical," and that his report of Christ as teaching "that marriage was indissoluble under all circumstances," was due to a "falsifier of the text"; and that "it follows that there is no evidence in the Gospels of any kind to prove that marriage is indissoluble" (p. 34). Again, he writes, "The conclusion that the bond of marriage is severed by disloyalty is (apart from the untrustworthy record in Mark 10: 2–12), that of the entire New Testament (First, Third and Fourth Evangelists, and 1 Cor.)" (p. 4, note).

He is forced to confess indeed that "the aim of the Second Evangelist is clearly to prove that, according to the teaching of Christ, marriage is absolutely indissoluble" (p. 31).

He confesses also, that the statement of St. Luke (16: 18), the most scholarly and historically accurate of all the Evangelists, "standing alone, and severed (why "severed"?) from its context, could be taken as declaring the indissolubility of marriage." He tries his best also to get rid of the plain teaching of St. Paul, whose record is earlier than the earliest of the Evangelists, when he writes, "Not I command, but the Lord (Jesus)," that the separated wife must "remain unmarried, or be reconciled to her husband" (1 Cor. 7: 11). Then, with strange inconsistency, he confesses this to be "a true logion, a true saying of our Lord," which he proceeds to becloud with a wholly irrelevant argument about the Jewish law (though the Apostle, like St. Mark, is writing for Gentiles) which allowed a woman to forsake her husband, but not to divorce him (pp. 32, 21, 22, 28).

So, after getting rid, by this short and easy method, of St. Paul, St. Luke and St. Mark, Dr. Charles finds in St. Matthew, with its "except for fornication," and his deliberate rejection of the Marcan record (p. 6), that marriage is only a contract, subject *ipso facto* to instant dissolution, "when there is an absolute breach of its essential conditions" (p. 2); "and that the guiltless has the right to contract a fresh marriage" (pp. 4, 5).

(2) *Two False Assumptions*

(1) As to the first assumption, it is not true that fornication and adultery are synonymous. Both passages testify plainly that adultery is only used to de-

fine the sin of a married person, or of an unmarried person who marries one who is divorced. In St. Matt. 15: 19, also St. Mark 7: 21 and 1 Cor. 6: 9, the two words are used in the same sentence, as they are used here, in evident contrast or contra-distinction. Adultery in a loose way may be called fornication as including *all* illicit intercourse, even incest (1 Cor. 5: 1). But fornication of *itself* can no more be forced to mean adultery than to mean incest.

It was only carelessness, and haste, and lack of scholarship in the General Convention of 1868 that permitted "fornication" in St. Matthew to be transformed into "adultery" in the canon. If the word "fornication" had been put there as the ground for permitting remarriage, the falsity of the argument would have been so evident, that the fatal proviso and exception would have been removed long ago.

(2) As to the second assumption, it needs only to be said that, whether "except for fornication" be our Lord's own words, or else the editorial explanation of a Jewish editor of the first or second century, for the benefit of Jewish readers, it cannot possibly be made to mean permission for remarriage for either innocent or guilty. For, while the grammatical construction allows "putting away" under certain circumstances, it definitely confines this allowance to "putting away" *only;* and it just as definitely condemns remarriage as "adultery." [2]

We have then in this little book of less than one

[2] For the reason for the peculiar use of "fornication" as an exception, which is only found in the Jewish Gospel of St. Matthew, see Chapter XII.

hundred pages, of which only thirty-four are devoted to " Divorce," a long series of unsupported assertions and assumptions, concerning which the whole Church of the first three centuries was living in absolute ignorance, as shown both by her definite teaching and by her discipline. It was to that age, when the unwritten tradition of " the mind of Christ " from the lips of Apostolic and sub-Apostolic men, and the written tradition of at least two of those centuries, was fresh and clear, that our English reformers in the sixteenth and seventeenth centuries confidently appealed for confirmation of the faith. That also is *our* only safe rule of interpretation today.

Yet it is this series of assumptions which the author makes the basis of his final and sweeping assertion that " the narrative in Mark stands alone, and is unhistorical, being obviously written to prove a dogma." And then he adds: " This dogma, therefore, is a human fiction (p. 34)." This kind of criticism of a Greek text that has stood the test of 1800 years, especially of the keen, and often hostile, scrutiny and research of the last hundred years, suggests rather the methods of the butcher than of the skilled hand of the surgeon, or the thoughtful diagnosis of the physician. It may be safely left, however, to the sane and unprejudiced judgment of humble disciples of our Lord to decide upon its merits.

For those who are so fortunate as to possess a copy of Archbishop Alexander's *Leading Ideas of the Gospels*, it would be enlightening to read there the many remarkable signs of accuracy, " the life-like details "

which are found only in St. Mark, in spite of his Gospel being the briefest of all; a very "picture gallery of memory" of the looks and feelings, and even the thoughts of Christ (Chapter 3). And this is the Gospel that is singled out as bearing false witness to Him! [3]

Such criticism, if applied to other things besides divorce, the divinity of our Lord for instance, would soon leave us, not merely the rags and remnants of what St. John calls "The Everlasting Gospel," but no Gospel at all — a merely human and fallible Christ, and a new and easy morality adapted to the low and selfish desires and fancies of the moment.

(3) "*Companionate*" *Marriage Unintentionally but Logically Stimulated and Taught by the Canon*

This process of Dr. Charles is so easy. With the witness of St. Mark "proved" to be "mutilated, distorted, untrustworthy, unhistorical, a human fiction, and false," the central fortress is taken, and victory is complete. Thus, "the whole problem of divorce" under consideration by all Commissions is

[3] It is to be remembered that St. Mark, the author of the earliest of the four Gospels, was the nephew of St. Barnabas, and that the home of his mother Mary was the centre of Christian life in Jerusalem while the Apostles were still gathered there (Col. 4:10; Acts 12:12). He was an early companion of St. Barnabas and St. Paul (Acts 12:25), and later, companion and beloved "son" of St. Peter (1 Peter 5:13), the friend of his mother in his youthful days in Jerusalem. All early tradition testifies, and internal evidence confirms the fact, that it was directly under the eye and preaching of St. Peter that he wrote the story of our Lord's life and teaching. (See Eusebius ii. 15 and vi. 14.)

simplified. It is not now the interpretation of an apparently, but not really, obscure "exception" in St. Matthew that is at stake, but rejection or acceptance of the text of the New Testament as it has stood against the attacks of unbelievers and real critics alike, for eighteen centuries.

It is well that this challenge should be made thus openly, and that, not only the great Council of our own Church, but "all who profess and call themselves Christians," should understand the REAL ISSUE. They must choose one or other of two things: Either (1) "The Everlasting Gospel," *the only Gospel that we have,* with its unchanging morality, as it has been handed on in the Church of all the ages, bringing peace and joy and hope, and life itself, to every generation, and the essential foundation of family and home and nation. Or (2) they must discard this Gospel as a shadowy "ideal," at best a body without bones, a bundle of uncertainties and inconsistencies, and as the teacher of a "new" and very different morality.

In brief, the union of man and wife is either "the profound and matchless oneness of Christian marriage," as Gladstone expressed it, and as every Anglican Prayer Book, *as well as our own,* still teaches it; or, it is in logical effect "companionate" or "trial" marriage. That is, it is only a contract depending on an "if," subject to the whim or fancy of one or both of the parties, and that by the easiest possible method, a single act of passion or deliberation, or even only the pretence of it.

(4) *"Conditions" of Divorce are not "Causes"*

One other issue needs to be made clear to the Church. In the resolution under which the Joint Commission was appointed it is specified that the purpose is "to study *the whole problem* of divorce, its conditions and causes." If by this definition is meant that conditions and causes comprise "the whole problem," it is very important to understand that, while conditions may influence for good or evil the growth of the disease, in themselves they are not causes. Every age, even every generation in this fast living age, has its own conditions.

Israel, a little nation of believers amidst a whole world of pagans, had its own peculiar conditions. Athens and Rome had theirs. The breaking up of the Roman Empire, the days of feudalism, the Renaissance, the sixteenth century, all had conditions of their own. Ours are different, that is all. They may be dangers to avoid or overcome, but they are not causes. When we have exhausted the whole list of modern conditions, social and economic — the effects of war, excessive wealth or poverty, idle rich or crowded poor, nerve-racking business or feverish pleasure, new inventions, the bicycle and auto, Friday evening dances and week-end parties — we have not reached a single cause. The root of the disease is not there, and there is danger of wasting time and thought on that aspect of the problem.

The real causes of divorce and its rapid increase today lie deeper than any or all of these ever-

changing conditions. Conditions may be less or more favorable to religion and morality as the generations come and go. With similar conditions to ours all about Him — worldliness, paganism or semi-paganism, wealth or poverty, in that " evil and adulterous generation," the Lord Jesus, like a wise physician, distinguishes clearly between surface conditions and causes. He singles out the quality of each human heart as the prime cause and source of sin. " Out of the heart proceed evil thoughts, murders, adulteries, fornications " (Matt. 15:19).

(5) *The Only Possible Cure*

It follows, therefore, that the only real cure for this as for every other form of sin must be sought, not in improved external conditions, but in the power and grace that can only be found in Christ and in obedience to His command. No matter what improvements we may effect, the causes will continue. It follows also that if the Church has been untrue to her trust, one chief and prolific cause of this appalling disease, this cancer that is eating out the very life of family and home in America, will be found in her failure to teach and preach, in pulpit and canon, in school and home, the truth as taught by Him, and clearly expressed in her office for " The Solemnization of Holy Matrimony," where we find no " except " whatever nor any uncertain voice.

On the contrary, so far has this American Church failed to do this, she has been preaching and teaching by her canon for the last sixty years to most willing

ears, silently but most effectively, that, in despite of her warnings against entering this holy estate "unadvisedly or lightly," nevertheless, her children need not be so very careful after all. For there is one simple and easy way, she declares, by which she will, in certain circumstances, permit a second marriage, and a third, or even a fourth, if the first should prove a failure or a disappointment.

Nor is this interpretation of the case mere conjecture or possibility. As every parish priest of experience, and every intelligent layman or laywoman, who has knowledge of what young people are talking about today knows full well, this kind of teaching by the canon, evasive and conditional as it is, *is discussed freely among them, and acted upon.*

(6) *The Fatal Harvest of Untruth*

And with what result? Why wonder that our forty-eight civil legislatures with complete logic have added to the canon's one cause (and that the easiest) fifty other causes, many of them in the eyes of both God and men of greater weight than this sin of passion? Why wonder also that we see this giant nation in earthly wealth and power, with its "head of fine gold," but its "feet of iron and clay," its vast multitude of broken homes (two hundred thousand every year), and its fatherless or motherless children, or with three or four "fathers" or "mothers," deprived of that home influence and Christian training which form the only possible basis of enduring civilization?

CHAPTER XV

THE RULE OF REASON AND COMMON SENSE

IN ALL the foregoing reports of committees (but happily not apparent in the other articles quoted), we have seen that there is one fatal flaw that neutralizes their many excellences and wise counsels concerning the need of preaching about marriage in public, and teaching in school and home. It is painfully evident that the authors have not reached down to the solid foundation, the bed rock of the Seventh Commandment and its merciful purpose for all humanity, incapable as it is of that "subsidence" of which our President speaks, and which can know no "exception" or "proviso."

It is no less a person than Professor Albert Einstein of Berlin University who says: "It is undoubtedly true that scientific study of the higher kinds, and general interest in scientific theory, have great value in leading men toward valuation of the things of the spirit. *But the content of scientific theory itself offers no moral foundation for the personal conduct of life.* . . Personally I find it of the highest importance to bring all the various faculties of the understanding into coöperation. By this I mean that our

moral leanings and tastes, our sense of beauty and religious instincts, are all tributary forces in helping the reasoning faculty towards its highest achievements.

" It is here that the moral side of our nature comes in — that mysterious consecration which Spinoza so often emphasized under the name of *amor intellectualis*. You see, then, that *I think you are right in speaking of the moral foundations of science; but you cannot turn it around and speak of the scientific foundations of morality.*" (See a remarkable interview with this much misunderstood Jewish professor, by two Irishmen, one a writer and lecturer, one a mathematician and author, in *The Forum* of June 1930.)

It is also an American scientist of national importance, and not a theologian who has said recently in regard to great questions in physics and other natural sciences: " A more general development of intellectual honesty appears essential for world progress. Dishonest thinking, perhaps unintentional," he adds, " is, I think very strong." If that is true of matters of pure intellect, or some form of physics, it may well be doubly true where the temptation to " dishonest thinking " and consequent dishonesty are stimulated unconsciously, it may be, by unreasoning sympathy with a sufferer, or self-interest, as it is not in any other sphere of life. " For such things," this writer says, " prevent us from seeing facts as they are, or inferring from them their natural conclusions." It is an English Bishop of the " Broad " school who

writes with a similar thought in mind: " It is, I know, the modern fashion to belittle the influence of logic in public affairs. Nevertheless, events are tied to their consequences more than it is always convenient to remember."

In some of the reports reviewed the absolute declarations of our Lord, with which He swept away the false interpretations, accommodations or perversions, of the moral law in the past, by such strong words as, " But I say unto you, Verily, verily," or again, as when He speaks of " *My* commandments, *My* sayings, *My* words "; these declarations are slurred over, or put in the background as things of almost impossible attainment, mere " ideals " not laws to be obeyed, as He obeyed His " Father's commandments " (St. John 15: 10). Nevertheless, to all who suffer from the sins of others as well as to those who suffer from their own rashness or folly or from unexpected disaster, this commandment still rings true in men's ears, " *Whosoever* doth not bear his cross, and come after *Me*, cannot be My disciple "; or again, " Whoso loveth his life shall lose it " (St. Luke 14: 27; St. John 12: 29). He would have us know that " the primrose path of dalliance " can never be the way to happiness either here or hereafter.

It is then in the midst of these many uncertain voices of Christian teachers, and a deluge of books (more than a thousand titles in our public libraries), pamphlets and magazine articles, on marriage and the so-called " sex " question, that there is absolute need for " all who profess and call themselves Chris-

tians," as well as for those seriously minded Americans who only see in Christ the greatest moral teacher the world has ever known, to seek for some first principles of reason by which to find their intellectual bearings. Only by such a method can they hope to rise above this welter of sounds, into an atmosphere where, "beyond these voices there is peace."

If they cannot or will not hear the voice of such a simple, though also most profound, book as the New Testament, it is evident there is something wrong with their method of thinking. For this chaos of opinions is not only distracting to the hearers, but may be also to the speakers and writers themselves, many of whom have never perhaps given an hour's serious thought to the subject. Nevertheless, such people are usually the readiest at a moment's notice to express with supreme confidence their "I believe," or "I think," or (with greater probability of truth), "I *don't* think," on one of the most vital, and yet needlessly confused, of all human and social subjects.

It is the greatest of all teachers and philosophers who tells us that "idle words" are of supreme importance (St. Matt. 12:26). "By thy words," He said, "thou shalt be justified, and by thy words thou shalt be condemned . . . in the Day of Judgment." Lord Bacon makes a keen observation about these "idle words." He says that, though people believe that their reason (*rationem*) rules their words, it is nevertheless a fact that words have the power of mightily entangling their reason," twisting and turn-

ing back their power over their understanding (*intellectum*)." (*Credunt enim homines rationem suam verbis imperare. Sed fit etiam ut verba vim suam super intellectum retorqueant et reflectant.*)

In quoting this acute remark of Bacon, Archbishop Trench in his *Study of Words* (Dutton, p. 38) says of words: "They are 'the Wings of the Soul,' as one has called them of old. They fill its sails, and are constantly impelling it upon its course, heavenward or to hell!" This is especially true in the case we are considering. No great moral question has been made such a victim of perversion of language, of wrong issues, irrelevant argument, sentimentalism, and sophistry, as this of marriage and divorce. "Love" is used for lust, "justice" for injustice, "self-expression" for selfishness, "liberty" for license. Chesterton has said, "A great deal of the current cult of pleasure, of luxury, of liberty in love, and all the rest of it, appears to me to be perfectly childish, and childish in a literal sense that is greed, without any grasp of consequences. I read novels and poems (he adds) in which the seeker after pleasure simply goes on saying over and over again, 'I must have happiness, I must have life, I must have love.' But this seems to me about as simple as the speech of the savage, 'I must have gin, I like gin. I like more and more gin.'"

It is this misuse of words that Trench had in mind which, he says, "plays fast and loose with the eternal principles of morality; which makes sin plausible, and shifts the dimly reared landmarks of right and wrong,

thus bringing the user under the woe of them that 'call evil good, and good evil, and put darkness for light and light for darkness'" (*ib.* pp. 37, 38).

Here is one of the greatest moral dangers of Christian people today in dealing with this question. The whole problem has been so confused by fog, and poisoned by misuse of words, irrelevances, self-interest, uncritical interpretation, and even, as in Dr. Charles' case, rejection of whole passages of Scripture, then worst of all, according to Dean Inge, by "popular novelists," that it is evident we can only escape from this murky atmosphere by the use of another light, "that is the Light that lighteth *every man* that cometh into the world" (St. John 1:9); the Rule of Reason and of Conscience, which, in its lowest development even in darkest Africa, is the Light of Christ. The law of pagan Rome, which in its best estate has continued to mould the life and equity of Europe and America, and has given it its enduring power in all these centuries, has been called with much justice, "Written Reason." It was this Light of nature and of Christ which, for above five hundred years caused the narrower Rome of Italy, in its earlier history, as Gibbon expresses it, "to abstain from this tempting privilege" of divorce. Yet after gaining world power, in three centuries of prosperity and corruption," he says, "this most tender of human affections was degraded to a transient society of profit or pleasure" (*Decline and Fall*, vol. iv, Harper, pp. 348, 349).

A few years ago people were startled by the an-

nouncement of a judgment of the Supreme Court of the United States, in a very complicated case which, it declared, it had reached by "the Rule of Reason." Some thought that this was only a rough way of cutting a Gordian knot, or at best but a convenient alliterative phrase of getting out of a legal difficulty. Mr. Elihu Root, however, has lately described a similar rule as only "the application of Common Sense," that is, *communis sensus*, the common or united wisdom of the *orbis terrarum*, the thinking and rational world. It is then to this we must appeal if we are ever to get out of this fog that encompasses the question of marriage and divorce in our day. If as Christians we will not be guided by the plain teaching of our Scriptures, let us ask ourselves as rational beings what Right Reason, otherwise known as Common Sense, has to tell us about the matter.

CHAPTER XVI

FIRST PRINCIPLES

THERE ARE at least four great axioms or principles of law and common sense to help us safely through the maze and mist which satanic power has created to bewilder simple-hearted readers of their Bible. These form a kind of "grammar of assent" which cannot be honestly ignored by men who really think.

(1) *"None of us Liveth to Himself"*

First of these is that great law of selfsacrifice which meets us at the very threshold of life, motherhood, and never leaves us while life lasts. There is a sense in which it is absolutely true that each of us must lead his own life. That is the great central fact of personality. As individuals we stand solitary before the throne of God. On the other hand no law of mathematics is surer than that which says, "None of us liveth to himself, and no man dieth to himself" (Rom. 14:20). To escape that law is a physical as well as a moral impossibility. It is the law of all human life, even to a large extent of mere animal life in bird and beast, in the birth and care and protec-

tion of their young. But it is especially true of human offspring, absolutely helpless as they are at first, and for long years dependent on others for the very necessities of life; not only for education but for shelter, food and clothing.

It has its illustration also in the life of the soldier, the inventor, the explorer, the physician, and many other fields of labor. It is an essential part of that duty to our neighbor as shown in Christ's story of the Good Samaritan. Humanity is not a series of unconnected units, like the sand on the seashore. It is by nature as well as by grace a single organic body though of many members. "Whether one member suffer, all the members suffer with it" (1 Cor. 12:26). The sublime height of the duty arising from this biological fact is only reached in the inspired declaration of the High Priest when he spake concerning the sacrificial life of Him who is the perfection of all humanity: "It is expedient for us that one man should die for the people, and that the whole nation perish not" (St. John 11:50).

Marriage, moreover, is not a peculiar sphere or corner of this human life of ours. It is the normal and necessary relation of men and women for right living, for the continuation of the only animal race "made in the image of God," and therefore for the existence of civilization. It is also necessarily the closest of all human relationships, where the demand for self-sacrifice reaches its highest point, and that daily. In fact not even the relationship of father or mother to their child is closer or more essential. For

this reason *alone* it is impossible to regard marriage as a mere voluntary condition, dissoluble for any reason whatever until death. The slightest departure from this law of its being takes it out of the natural order of life, and transforms it at once into "trial" marriage, which is simply concubinage, leaving the offspring half-orphans, or exposed to the chance care of strangers or of the State.

Though a contract entered into before witnesses is necessary for assurance, and as a matter of public policy, it is not this, nor yet some "sacramental" act of either priest or magistrate, that gives marriage its essential character. It is in the very order of physical nature, "from the beginning of the creation," as our Lord declared, that the union of "one flesh" is effected. This, once consummated after free consent, becomes the act of God in a new creation, and can no more be broken by the act of man than the bond between parent and child, or brother and sister.

It is a non-Christian, an acute and thoughtful scholar, who writes: "It may be said that in one case the tie is a natural tie, the tie of consanguinity; and that in the other case the tie is not of so close a nature. But I maintain that the mutual surrender in marriage takes the place of the natural tie, otherwise it were unutterably, intolerably base. A tie as strong as that of nature has been formed, when once there has been this mutual surrender. . . The husband cannot cut the wife adrift, no matter what faults appear, any more than the parent can cut the child adrift" (Professor Felix Adler, *Marriage and Divorce*, p. 50).

" Because it is constituted in the order of nature, and not at the will of the parties," writes also a Christian scholar, " it is indissoluble except by an event *equally in the order of nature,* and this can be found only in death " (Canon T. A. Lacey, *Marriage in Church and State,* London, 1912, pp. 18, *sq.*).

(2) "*No Man may Take Advantage of his own Wrongdoing*"

In this well known legal maxim we have a second form of this Rule of Reason. Moreover, it cannot be too often repeated that a single act of adultery, as provided in a canon, or rule of discipline, or even only the *pretence* of wrongdoing, is the easiest of all ways to get rid of husband or wife. That and desertion are also the two pleas that lend themselves most readily to collusion between the parties; and collusion is the one thing which is the despair of judges and juries, as it is almost always impossible to prove it. It is inconceivable that our Lord was ignorant of this fact of depraved human nature. It is equally inconceivable that, knowing it, He should encourage it or make it possible. Undefended suits are said to be ninety per cent of all cases of divorce, though even in defended suits where both parties appear, collusion is equally difficult to discover. Thus in practice, each of these offences, when allowed as ground for divorce, adds a strong incentive to sin. Instead of imposing a restraint on offenders, they actually incite them to lawlessness and sensuality. It has been truly said, " The advantage does not accrue to the innocent

party but to the guilty; especially if he be exceedingly guilty." And there are some who call this justice!

It is this Rule of Reason and of Common Sense that the keen intellect of St. Augustine in the fifth century was following when, commenting on St. Paul's perfectly clear declaration in Romans vii: 10, 11, he writes: "For if by the adultery of a spouse the marriage bond is dissolved, the absurdity follows . . . that the woman may be loosed from the bond by her unchastity. And if she is loosed, she shall be free from the law of her husband. And so she shall not be an adulteress if she sin with another man, since by adultery she has been freed from her first husband. Which is as foolish a thing as could be said, and so far from the truth, that no mind that is human, not to say Christian, can admit it" (*De Conjug. Adult.*, Lib. II. chap. 4. See also Watkins, *Holy Matrimony*, on "The faculty of Reason," pp. 432–437).

No wonder Dr. Döllinger, under compulsion of this same principle of Common Sense writes: "On this theory either party can at any moment destroy the marriage;" and that, to read into the words of Christ such a meaning is simply "inconceivable" (*The First Age of Christianity*, Trans. by H. N. Oxenham, 1877, II. 265, 267; and Appendix III. 366).

(3) *"Hard Cases"*

Once more under the Rule of Reason, we have a third legal maxim: "Hard cases make bad laws." Lawyers and lawmakers readily apply this principle

of common sense to every other question, but rarely think of applying it to marriage.

Refusal to reverse a moral law for a "hard case" is charged as cruel. It has been even said that to compel the innocent party to live a lonely life of celibacy, which, for other reasons, hosts of women, and many men also, are compelled to do, "is unfair, and therefore unchristian." But this of course is plainly begging the whole question as to what is fair and what is Christian. It is also to charge our Lord Himself as unfair and cruel when He bids men take up their cross and follow Him, if need be, even to death. It has been lately well said concerning another field of duty: "Surely we may ask [of Christ's professed followers] something of that spirit which, since the very beginnings of history, men have expected and found in the average common soldier — a will to endure hardship for the sake of duty, and to use life as one who knows of things better than life" (*Sir Gilbert Murray*).

It is conveniently overlooked that the real unfairness and unchristian character is imposing on society at large the burden that should be justly borne by those whose rashness, or perhaps some greater fault, was the cause of their suffering. It is one thing to bear voluntarily "one another's burdens." It is a very different thing to force the self-made burdens of the few upon the many. In that case mere justice, as well as the law of the cross, demands that "Every man shall bear his own burden" (Gal. 6: 2, 5).

The fancied "right to happiness," or to "have a

good time," and at the expense of others, is the very opposite of Christ's principle, and His example. In fact it is sheer selfishness, and is actually an encouragement to the victims of " hard cases " to repeat their experiments for happiness *ad libitum.* There is indeed a righteous remedy for even the hardest of cases, not only those from infidelity, but those from other causes which are harder to bear than infidelity. There is the right of " putting away," as distinctly assumed by our Lord in St. Matthew's report of His words, while in the same breath He condemns with equal distinctness remarriage. To this right of separation St. Paul also bears witness (St. Matt. 5:31, 32; 19:29; 1 Cor. 7:10, 11, 17). Nevertheless, there are no less than twenty-seven of our forty-eight legislatures that refuse this relief to human sufferers, and compel them, contrary to their conscience, to resort to absolute divorce to release them from a monster or a tyrant, and leave the cruel husband free to continue his evil work with impunity on other victims. Here again we have the grossest injustice to the innocent for the benefit of the guilty.

(4) *The Pragmatic Test Again*

Finally, we have the conclusive test of the Rule of Reason in what it is the fashion of the day to call pragmatism, in plain English, the pitiless logic of results. This is the test our Lord Himself gives us of all departures from natural and divine law. Of false prophets in their theories and " thinkings " (?)

about marriage, as in other things, He says, "Ye shall know them by their fruits." And then appealing to this Rule of Reason and of Common Sense, He asks incredulously: "Do men gather grapes of thorns, or figs of thistles? A good tree cannot bring forth evil fruit, neither can a corrupt tree bring forth good fruit." And He adds the dread warning and prophecy: "Every tree that bringeth not forth good fruit is hewn down and cast into the fire" (St. Matt. 7: 16–20).

We do not need to go to Nineveh, or Babylon, or Jerusalem, or pagan Rome for illustrations of the truth of this pragmatic test. We find that even in Christian lands, where the teaching of Christ was partly abandoned, one of these false prophets whom our Lord warned us against, with his polygamous and brutal followers, became the scourge and nemesis of the Church, leaving the once flourishing Churches of North Africa and the East, the Churches of Athanasius and Origen and Augustine, in ruins. This is largely true also of the once great empire of Russia in our own days. And rich America, with all the might that God has given her, and all the good as well as evil that wealth and power can give, can no more endure this fatal scourge than Babylon or Rome, unless she repents and amends.

It is well once more to recall the strong words of the report of the Presbyterian committee: "With the home crumbling before our eyes, and the very foundations of our social structure being undermined and destroyed, all favorable trade reports, all rejoicing in

economic prosperity, and all self-congratulation upon our vast educational system are like the sound of cheerful music as a funeral procession wends its way to the grave."

One other objection to all that has been said hitherto as to the danger that faces us in America in family and home, needs to be noticed here. It has been said that in view of "the great increase of divorces in this country, and their attendant evils, the frequent howls of clergymen and others" seem to overlook "entirely the vast majority of married couples who live happily together throughout their entire lives, without any thought of violating their marriage vows."

That fact is *not* overlooked or forgotten by any thoughtful Christian. It is something to be devoutly thankful for that there are so many such. But in an epidemic of diphtheria or typhoid fever there is little comfort to be found in the thought that while many of our friends and neighbors are suffering and in sorrow, many others are as yet untouched by these dread scourges. That danger only spurs fathers and mothers, and boards of health, to more vigorous action to combat the evil thing. Confidence that our own families were safe would be the height of selfishness, and also madness. When we find then that the fatal cancer of divorce has increased, as it actually has, more than 300 per cent in our beloved homeland within fifty years, and, as the committee of the Presbyterian Church reminds us, "that the divorce rate is competing with the death rate," one divorce to every

six marriages having been granted in the United States in 1928, while in our neighbor Canada in 1926 the rate was only one divorce to 121 marriages, there is abundant reason to cry aloud in sober warning and alarm, if not to " howl " as in a kind of frenzy.

CHAPTER XVII

TWO GREAT NECESSITIES — A TRIAL COURT, AND A COUNCIL OF ADVICE

(1) *A Trial Court*

WE HAVE seen, and intelligent Christians will accept it as a truism, that law is an essential instrument in all civilized society. Government in Church or State cannot be left to "ideals" or sentiment. But law cannot enforce itself. It needs both an interpreter and an administrator. Common sense as well as the New Testament demands this. Nevertheless, some Churches, the Episcopal Church included, make no authoritative provision for such a court in matrimonial affairs — one of the very central concerns of human life, which at present demands such administration as greatly as it has ever done since the earliest days of Christianity.

Our Lord has given to His Church (no matter how we define that word) definite powers for this purpose, which He calls "keys of the Kingdom of Heaven"; to open or shut the gates of His Church, to "bind or loose," to remit or to refuse remission (St. Matt. 16: 19; 18: 18; St. John 20: 23; Acts 2: 38; 1 Cor. 6: 1 *ff*). Yet in this matter there is neither council

of advice to aid in difficult cases, nor court to mete out justice to either innocent or guilty. All is left largely to Bishop or Minister, and for the most part to unskilled or unlearned persons in one of the most difficult spheres of jurisprudence.

It is true that some Christian bodies among us have imposed on their members beliefs and rules of conduct which their Lord never commanded, while others have ignored some of His commandments which are most explicit. But this only makes it all the more important that there should be an authoritative, intelligent, and orderly method of learning, interpreting, and administering His will and commandments, in a matter which lies at the very foundation of family and home, and of civilization itself. To " judge righteous judgment," and " not according to the appearance " (St. John 7: 24) in such complex affairs, cannot be done in any haphazard way. Both mercy and justice are bound to suffer in these conditions, and the whole body politic, as well as spiritual, suffers also.

There are many cases of so-called marriage which, according to any law human or divine are not marriage, but either plain bigamy, or else concubinage, which nevertheless the civil law regards as legal, but which the law of Christ cannot allow among the ranks of His professed followers. And again there are other cases which the State regards as illegal, where the known will of Christ finds no ground for condemnation, but only mercy and pardon; yet no authoritative method of adjudication is provided

by any of the Churches here under consideration. Past errors of our own, and cowardice in view of narrow and false judgments in other Churches, are chiefly responsible for this; but it is without justification among intelligent Christians. (See also Chapter XI.)

In a free Church in a free State, such as we have in America, *and no where else in the world*, and where there is no need or excuse to go on our knees to Congress or Parliament for approval, this is nothing short of gross neglect of duty, and a disgrace that demands instant remedy. For cases of doubt or uncertainty even civil courts in many instances provide no remedy. The forty-eight codes on divorce of forty-eight different legislatures are so multitudinous, so confused, and sometimes so contradictory, and in direct opposition to the law of God, that even the Supreme Court of the United States has been unable to unravel them.

In a clear case of bigamy, or other form of unlawful marriage, null and void from the beginning, eight states make no provision whatever for annulment. In twenty-seven, as we have seen, none is made for judicial separation, *a mensa et thoro*, other than that of divorce. These are only some of those things which needlessly shock the Christian conscience. In the latter case no proper relief is given to husband or wife from intolerable conditions. In the former, instead of a judicial declaration that no married status ever existed between the parties, the innocent party, or perhaps both, are left with the stigma of divorce.

(For some illustrations of this in the experience of the writer, see *Divorce in America*, pp. 32, 33; also Chapter XI of the present book.)

These are among the easiest of all cases that need lawful and orderly decision by the Church court. The greatest need is where there is uncertainty or doubt, or where it is not a question of facts, but of the just interpretation of facts in the light of Christian law. Here, moreover, there need never be any clashing of Church law with the civil law. If the State declares a marriage lawful, or else null, so far as children, and citizenship, and property are concerned, it is lawful in the State. On the other hand, if the Church holds a marriage lawful, or else null and void (as in the case of remarriage after divorce) it is lawful or otherwise according to the law of God for citizenship in the kingdom of God.

The only possible occasion of conflict would be where the State required the Church to perform an act which in her eyes God had condemned. But this has never happened in America, and probably never will; as for instance to receive an unrepentant adulterer to her communion. Both State and Church are free, each in their own sphere, and there is neither need nor excuse for conflict. Nevertheless there are cases where doubt or difficulty exists as to lawfulness in God's eyes, because of ignorance in the parties, or the multitude and confusion of civil laws, which only a competent court can properly deal with. In such cases both minister and bishop are today taking authority upon themselves to act justly, *often in contra-*

vention of the present canon. And this is a condition which breeds lawlessness in other matters.

As regards a decree of divorce being the equivalent of annulment, both nature and the law of God cry out against it. One reason alone would of itself be sufficient. An essential part of every marriage is the children, and they cannot be annulled any more than they can be annihilated. This distinction is well put by a thoughtful writer in *The Methodist Review* [quoted in Chapter V (4)]. "Not until the child is unborn," he says, "and thrust back into the mystery of life from which it came; and that, not through the gate of birth; not until then can anything satanic, or human, or divine undo the unity of the married pair." This is perhaps the saddest feature of divorce, the abnormal and impossible position into which childhood is forced, with several fathers or mothers, or else none.

NOTE I

The Lambeth Conference of 1930 on Marriage and Divorce

It is to be remembered that this seventh decennial assembly of Anglican Bishops, like all preceding ones, is not a Legislature or General Synod, but only a conference. Nevertheless, its recommendations, which are expressed only in its "Resolutions," come to us with great weight as interpretations of the mind and will of our Lord on matters of most practical

importance to the welfare of the whole Church. This is especially true of the present Conference, the largest numerically ever held, consisting of three hundred and eight Bishops, lacking only ten of the number in the great Council of Nice in the year 325. They came, moreover, from every quarter of the world, sixty-two of them from this American Church, and they "represented every type of churchmanship, and every variety of diocese" (*London Times*).

The resolutions of the Conference, seventy-five in number, most carefully considered by committees expert in their special subjects, are, as has been said, "counsels rather than commands." They make no attempt to declare new doctrines or enact new laws, but only to "witness," reaffirm, and explain the old, which, in the language of the Preface to the Ordinal, have been in the Church "from the Apostles' time," or to use the language of St. John, "from the beginning" (I John 2: 7, 13; 3: 11; II John 5).

It was under such a law concerning Holy Matrimony, held and practised by the Church of the English for 1270 years, that this American Church lived for 261 years up to 1868 when our General Convention, after most meagre consideration, and contrary to the very letter of its Constitution (Article 10), discarded it so far as any illegal enactment could do so.

It will be observed that while dealing too tenderly with the defection of the Eastern Church and our own, in its allusion to the prestige of "regional and national Churches," the recommendation of the Conference is still a reaffirmation of the Scriptural truth, and

the Primitive and Apostolic discipline, which forbade remarriage to either innocent or guilty *in any case* of divorce. The complete text of these resolutions on "Marriage" (nos. 9–12) is as follows: —

II *Marriage and Sex*

9. The Conference believes that the conditions of modern life call for a fresh statement from the Christian Church on the subject of sex. It declares that the functions of sex as a God-given factor in human life are essentially noble and creative. Responsibility in regard to their right use needs the greater emphasis in view of widespread laxity of thought and conduct in all these matters.

10. The Conference believes that in the exalted view of marriage taught by our Lord is to be found the solution of the problems with which we are faced. His teaching is reinforced by certain elements which have found a new emphasis in modern life, particularly the sacredness of personality, the more equal partnership of men and women, and the biological importance of monogamy.

11. The Conference believes that it is with this ideal in view that the Church must deal with questions of divorce and with whatever threatens the security of woman and the stability of the home. Mindful of our Lord's words, "What therefore God hath joined together, let not man put asunder," it reaffirms "as Our Lord's principle and standard of marriage, a life-long and indissoluble union, for better, for

worse, of one man with one woman, to the exclusion of all others on either side, and calls on all Christian people to maintain and bear witness to this standard." [1]

In cases of divorce —

(*a*) The Conference, while passing no judgment on the practice of regional or national Churches within our Communion, recommends that the marriage of one, whose former partner is still living, should not be celebrated according to the rites of the Church.

(*b*) Where an innocent person has remarried under civil sanction and desires to receive the Holy Communion, it recommends that the case should be referred for consideration to the Bishop, subject to provincial regulations.

(*c*) Finally, it would call attention to the Church's unceasing responsibility for the spiritual welfare of all her members who have come short of her standard in this as in any other respect, and to the fact that the Church's aim, individually and socially, is reconciliation to God and redemption from sin. It therefore urges all Bishops and Clergy to keep this aim before them.

12. In all questions of marriage and sex the Conference emphasizes the need of education. It is important that before the child's emotional reaction to sex is awakened definite information should be given in an atmosphere of simplicity and beauty. The per-

[1] Lambeth Conference, 1920. Resolution 67.

sons directly responsible for this are the parents, who in the exercise of this responsibility will themselves need the best guidance that the Church can supply.

During childhood and youth the boy or the girl should thus be prepared for the responsibilities of adult life; but the Conference urges the need of some further preparation for those members of the Church who are about to marry.

To this end the Conference is convinced that steps ought to be taken (*a*) to secure a better education for the clergy in moral theology; (*b*) to establish, where they do not exist, in the various branches of the Anglican Communion central councils which would study the problems of sex from the Christian standpoint and give advice to the responsible authorities in diocese or parish or theological college as to methods of approach and lines of instruction; (*c*) to review the available literature and to take steps for its improvement and its circulation.

NOTE II

By the Author

This law of God concerning marriage, as restated and proclaimed by the Lord Jesus, is set forth fully in Canons 102, 105, 106, and 107 of the Church of England. Here we find two kinds of divorce recognized. One is *divortium a thoro et mensa* (from bed and board), which is only a judicial decree authorizing a temporary and provisional separation which is

sometimes necessary for very urgent reasons such as protection of one of the parties, or their children, from danger or suffering in body or mind. The second (*divortium a vinculo*), divorce from the bond, is rather a misnomer for it is only a divorce or separation from a bond that had no real existence, but only in appearance. To quote the language of the canon (106); it is only a judicial "sentence for annulling of *pretended* matrimony"; that is, when the alleged marriage is not marriage at all, but null and void from the beginning. (See *The Constitutions and Canons Ecclesiastical*, University Press, Oxford, 1840.)

In the former case, "from bed and board," there is no thought or pretence of sundering the bond which "man may not sunder." The marriage is real, and still exists in the "one flesh." It follows, therefore, of necessity that "during each other's life, neither party shall contract marriage with any other person" (canon 107). This is the law of the whole Anglican Communion today, and has been for more than 1300 years past. It is clearly summed up in the second rubric of the office for Holy Matrimony in the Canadian Prayer Book, which reads: "No clergyman shall solemnize a marriage between persons, either of whom shall have been divorced from one who is living at the time." This corresponds exactly with the first sentence of Section III of the American Canon 43 (see p. 84), but it is utterly negatived by the fatal addition there of the "proviso" and "exception" of 1868. In the second kind of divorce, commonly called a decree of nullity, there is no attempt

to destroy a bond that exists, but only a judicial declaration that the "pretended" marriage was no marriage.

It should be noted that what is said in Chapters XVII and XVIII as to the need of education on this subject for clergy, parents, and people generally, was written before the meeting of the Conference. This is true also of what is said there of the need for diocesan "councils," or commissions of advice, to deal with doubtful or obscure cases of marriage, and the possible restoration, therefore, of the innocent party to the Holy Communion.

CHAPTER XVIII

IMPEDIMENTS TO LAWFUL MARRIAGE

(1) *Diriment Impediments*

THERE ARE two distinct kinds of "impediments," as they are called in the service of the Book of Common Prayer. These are known in legal phrase as "diriment" and "prohibitive." The diriment class (a Latin word which means sundering) are of such a character as to render a proposed marriage absolutely void and "unlawful" from the beginning. Prohibitive impediments are only those "obstacles of human or Church law which forbid marriage to be contracted in a certain way, but not such as to make them void either by State or Church" (*The Laws of Marriage*, by the Rev. Dr. John Fulton, New York, 1883).

Of the former or diriment kind that cause marriage to be unlawful from the beginning, that is, not marriage at all, there are six causes, and it is these that the Church warns the parties to confess, if they exist, "as they will answer at the dreadful Day of Judgment, when the secrets of all hearts shall be disclosed."

(1) The first of these diriment causes is, of course, the fact of either party having a husband or wife

living. (2) The second is, that either force or fraud is used to compel the marriage, and thus destroy that freedom of contract which is absolutely essential to true marriage. (3) A third is insanity, or such other mental defect, *before marriage*, as would also render the party incompetent to give free consent. (4) A fourth is impotence of body, in either party, to fulfil one of the chief purposes of marriage, the procreation of children. (But no plea for nullity could be allowed if the parties continued to live together after this discovery was made.)

(5) Another is a secret agreement of the parties to live together only as long as they are pleased to do so, which would be concubinage, and not marriage. (In this case, however, public policy and justice, in Church and State alike, would hold both parties bound, otherwise they would be taking advantage of their own wrongdoing, which is contrary to justice and reason.) "If an external and formal consent has been given, man, who can only look on the outward appearance, must inquire no further. All human laws, whether ecclesiastical or civil, must treat the marriage as binding" (*ib.* p. 272). If only one of the parties had made this mental resolve, and hidden it from the other, the case might be one of fraud, and might render the marriage voidable. But this would be usually impossible to prove.

(6) A sixth class which stands by itself, as being debatable, is nearness of kinship or consanguinity. Some of these degrees, like the marriage of brother and sister, are so contrary to instinct and natural law

that they need no other reason to condemn them as incest, unlawful and abhorrent. It is not, however, certain what degree of kinship constitutes a natural bar to marriage.

"The practice of mankind," Canon Lacey writes, "has varied from a rule of strict exogamy [marriage outside of one's clan or family], to the point of allowing marriage of a brother and a sister of the full blood. At the same time . . . the definite horror of incest, which seems indestructible even in the most decayed civilizations, has its deep roots in human nature. . . It seems to be a certain conclusion of biology that the human race is descended from a single ancestor, differentiated by one of the greater variations that appear spontaneously in breeding. If this be so, the unity of the race could be preserved in the first instance only by the closest interbreeding, and it is impossible to refer the prohibitions in question to these beginnings.

"But the natural constitution of society is not to be found in the first stages of human life. It is found in that to which human life tends, in accordance with the thought of the Creator. . . The one kind of union that seems to be certainly excluded is that between a man and a woman in the direct ascending and descending line. If this be so, and the question is one of great difficulty, all other prohibitions (in kinship) must be referred to human law, being imposed for the better safeguarding of the family" (*Marriage in Church and State,* by T. A. Lacey, London, 1912, pp. 30, 31. See also Watkins, "*Practical Conclusions,*"

p. 437; and Chap. VIII "*Of the Remarriage of Converts, and of Mixed Marriages*," pp. 439 *sq.*).

Another somewhat debatable sphere is the relationship which is caused indirectly by marriage, as between a man and his deceased wife's sister, or conversely, between a woman and her deceased sister's husband, which is called affinity. It is not necessary to discuss this question at large, though it may be remarked that the very fact which our Lord proclaims, and natural law asserts, namely, that man and wife become "one flesh," leads inevitably to the conclusion that the restriction of marriage applies to persons allied in this as well as to those allied in blood. "This obvious conclusion is fortified by the remark of St. Paul that union between a man and 'his father's wife' (1 Cor. 5: 1, that is, his stepmother) was regarded as a thing not to be heard of. That is to say, it was an offence against natural law and natural religion." (For a full discussion of Degrees of Affinity see Watkins, pp. 634–708; and *Marriage with a Deceased Wife's Sister*, by Fr. Puller, Longmans, 1912.)

Canon Lacey sums up five conditions which are required for a valid marriage, as follows: (1) "They must intend true marriage; (2) they must be physically capable; (3) they must be acting freely, under no restraint and under no mistake; (4) they must be subject to no previous bond of marriage; and (5) they must not be too near akin" (p. 22).

(2) *By Condonation Some Unlawful Marriages may became Lawful and Unvoidable*

Where force, fraud, or fear has been used to deprive one of the parties of freedom of action there is, of course, no marriage, and this can be so declared by the court. But the union may cease to be voidable if, when released from this external influence, the parties continue to live together as man and wife. By subsequent consent and condonation their unlawful marriage is now rendered lawful, and from this no civil or ecclesiastical judgment can free them. The marriage becomes valid under both State and Church. Illustrations of the foregoing rules are seen in the Vanderbilt-Marlborough case, and that of Marconi and Miss O'Brien.

Some other cases are not necessarily void *ab initio*, but are voidable by law. Such are instances of impotence in either party, though such a plea can have no ground in justice or public policy when this condition has been known to both parties before marriage. If learned only after marriage without any attempt to remedy the defect, both equity and public policy would also compel its refusal. Of course the existence of a living husband or wife, under all circumstances, renders a marriage void from the beginning according to the law of God, no matter what action may be taken by the civil authority.

The difficulties, some real and some artificial, which are certain to be met in the administration of such a court (but no greater than those in any civil tribunal)

have hitherto been made the ground of objection to its establishment in the Church. Perhaps the greatest reason for this unreasonable fear or cowardice is the questionable or very doubtful decisions and rulings of the Roman court of the Rota. Viscount Bryce, writing concerning these in studiously moderate language, enumerates "the multiplied canonical disabilities, arising either from precontract [*sponsalia* or, in our modern usage, *engagement*] . . . or from relationship, either of consanguinity or of affinity." And "they multiplied these impediments," he adds, "to such an extent as to make the capacity of any two parties to enter into matrimony matter of doubt and uncertainty, giving wide opportunity for chicane, and an almost boundless scope for the interposition of the Roman Curia, whose sale of dispensations became a fertile and discreditable source of revenue.

"These tangled subtleties regarding precontracts and prohibited decrees were at the time of the Reformation [in England] swept away by a statute of 1540, which declared that all marriages should be lawful 'which were not prohibited by Goddis Lawe.' . . Two principles, however," Lord Bryce adds, "remained unaffected by the legislation of the period in England. The one was the indissolubility of marriage. The other was freedom of entering into it, and consent alone being still all that was necessary to make it valid" (*Studies in History and Jurisprudence,* pp. 816–7).

But similar objections to those brought against the canonists, and even greater, can be brought against

our own treatment of marriage in the civil legislatures and courts of America. Concerning these doings of forty-seven State legislatures, and that of the District of Columbia, Viscount Bryce has these well considered words to say: "The regulations which the States [South Carolina, much to its honor, is not one of them] have provided, present the largest, and strongest, and perhaps the saddest body of legislative experiments in the sphere of free self-governing communities that they have ever tried" (*ib.* p. 830).

But in spite of all these errors of others, we Christians may well ask, Why should Americans doubt the ability and honesty of a court established by themselves for the purpose of justice, equity, and charity in the merciful spirit of Christ, to deal with cases that are now left for the most part to men untrained for this special purpose, and that demand special study and the possession of a judicial temperament? We may well repeat for American Christians St. Paul's question to his Corinthian flock: "I speak this to your shame. Is it so, that there is not a wise man among you? no, not one that shall be able to judge between his brethren?" (1 Cor. 6: 5.)

(3) *Prohibitive Impediments*

It is not necessary here to relate the many ways in which prohibitive impediments may occur. It will suffice to mention certain irregularities which cause anxiety at times. This may be the lack of proper authority in the person before whom the marriage has

been performed; or because no proper notice, according to the civil law, has been given; or because a proper license has not been obtained; or the license has been used outside of the district to which it belongs; or when wrong statements in regard to the age of the parties have been given. These, and such as these impediments, are of a very different character in the several states. Though prohibitive, they do not make a marriage void, but only render it lacking in regularity, to be corrected in some proper way by State or Church. Other cases of error or irregularity are in a neutral or twilight zone, where they may demand the decision of either State or Church, or both.

(4) *Trial Court and Council should be Appointive*

Inasmuch as special fitness in learning and judicial temperament are essential qualifications for both court and council, it is evident that the members should not be elected by vote of a representative assembly, but only nominated to them for approval. They should therefore be selected with great care, and laity and clergy should be represented on both bodies, while at least one of the former should be a counsellor-at-law. It is important also that there should be a supreme court of appeal representing the whole Church, and composed in a similar manner. The Bishop of the diocese should be the president of the diocesan court, and a Bishop chosen by the General Convention the president of the court of appeals.

CHAPTER XIX

"THE TIME IS COME THAT JUDGMENT MUST BEGIN AT THE HOUSE OF GOD"

(1 Peter 4: 17)

WE HAVE seen, I think, that reason, justice, and mercy all combine to show that when our Lord, as reported by all three Evangelists, declared emphatically that "*Everyone, whosoever,* shall put away his wife and marry another, committeth adultery," He was neither originating nor modifying the Seventh Commandment. He was only interpreting it by applying it to a particular case; an example of what we call today "case law." It is in fact more than this. It is the work, not of the lawgiver alone but of the Divine Judge Himself, pronouncing judgment in which there is absolutely no room left for an exception of any kind. It is final. We have seen St. Paul also confirming this interpretation of the Commandment in his own experience.

Our Lord goes even farther. Not only the sinful act but the lustful "look," He declares, is "adultery," unseen of man, "in the heart," yet possessing all the sinfulness of the outward act. To be consistent, therefore, those who claim that adultery de-

stroys *ipso facto* the marriage bond, must allow that the same result must follow the lustful look. But, as the far-reaching effect and fatal consequences to society, in thus separating husbands and wives, are beyond all computation or imagination, no one has ever ventured to make such a claim. Nor is there in the New Testament any record of our Lord having ever suggested such an extraordinary possibility.

Moreover, Christ knew, as do we, that as the slightest angle of deviation in two parallel lines means infinite divergence in the end, this law is just as true in morals as in mathematics. "Not one tittle of the law can fall," He said, else all must fall, and mercy for the multitude falls with it. "If divorce [with remarriage] is granted in the first instance," writes Dr. Felix Adler, "it cannot be refused in the second, or in the third. Where shall the line be drawn?" he asks, "if divorce be granted [once]? To relieve the misery of the few, shall the permanence of marriage be destroyed, and thus misery imported into thousands of houses from which it might have been averted?" (*Marriage and Divorce*, p. 56.)

Our Lord did not forbid separation for urgent cause. But He did demand that, no matter what trials or wrongs have been endured before separation, there shall be no remarriage after while the other party is alive. In His loving severity and mercy, He knew that such an allowance would only open the floodgates for infinitely greater unhappiness to countless multitudes. Sympathy with the sufferer every

Christian feels and approves. Sympathy even with the guilty sufferer is a virtue if there are signs of repentance. But sympathy must never be allowed to become a maudlin sentiment. "The sentimentalist," writes Dean Inge, "is kind only to be cruel, and unwittingly promotes precisely the results he most deprecates." He who spake those stern and unmistakable words, that "every one, whosoever, puts away wife (or husband) and marries another "commits adultery," was not only infinitely wise but infinitely loving. To complain then that any law that only complies with His "commandment" is cruel, is to condemn Him as cruel. *There is no escape from this dilemma.*

There are of course mitigating circumstances that modify or extenuate the sinfulness of disobedience to a law of God, and give ground for mercy to penitence or ignorance, but no human lawmaker or court can change the law itself. That abides for ever, "without shadow of turning," like God Himself (St. James 1: 17). It is no mirage but the everlasting "Rock which is Christ" (1 Cor. 10: 4). That cannot "subside." Nevertheless, or rather because of this, every law of God dealing with men is unlike the hard mechanical law of physics. In its final analysis as dealing with persons and not with things, it is always the expression of divine love, like the unchanging movement of stars and sun in their ordered course. In Him love and severity, "mercy and truth, are met together: righteousness and peace have kissed each other" (Ps. 85: 10).

It is this conception of law that the " Judicious " Hooker, the contemporary of Shakespeare, has in mind when he writes: " Her seat is the bosom of God, her voice the harmony of the world . . . the greatest as not exempted from her power . . . all admiring her as the mother of their peace and joy " (*Ecc. Polity*, Book I. xviii. 8, p. 358 Keble's ed.)

It is not a theologian of three hundred years ago, but a distinguished American scientist of today, the Director of the vast enterprise of the General Electric Company, who comes to the same conclusion. Speaking of the ever changing theories concerning the laws of matter, he says: " Take the atom. Yesterday it was whirling particles, infinitesimal solar systems. But that is outmoded now, and today the atom is described as a wave in space. Tomorrow it will be something different. No scientific concept can stand still. All is in motion. *The will of God*, the law that we discern but cannot understand or explain — *that alone is final.*" We may add, as Dr. Whitney would, " Will implies a Person ": and with Browning,

" Earth's crammed with heaven, and every
common bush
Afire with God; but only he who sees
Takes off his shoes."

It is concerning this Law and Will of " mercy and truth " that a " greater than Moses " declared to His

Apostles, "Make disciples of all nations, teaching them *to observe all things whatsoever I have commanded you.*" And again, "If ye love Me, *keep My commandments.*"

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